



PUBLIC MATTER

FILED V.A.

STATE BAR COURT OF CALIFORNIA

HEARING DEPARTMENT – SAN FRANCISCO

DEC 05 2016

In the Matter of)

CRAIG HENRY MAR,)

Member No. 176939)

A Member of the State Bar.)

STATE BAR COURT CLERK'S OFFICE
SAN FRANCISCO

Case No.: 16-PM-16989-LMA

**ORDER GRANTING MOTION TO
REVOKE PROBATION AND ORDER OF
INACTIVE ENROLLMENT**

Introduction

On October 20, 2016, the Office of Probation of the State Bar of California (Office of Probation) filed a motion to revoke the probation of Craig Henry Mar (Respondent). Although he was properly served with the motion to revoke probation by certified mail, return receipt requested, and by regular mail at his State Bar membership records address, Respondent did not participate in this proceeding. On November 15, 2016, this court issued an order submitting the motion for decision, serving Respondent with a copy of that order.

Good cause having been shown, the motion to revoke Respondent's probation is granted and discipline is recommended as set forth below.

Findings of Fact and Conclusions of Law

On February 25, 2015, the California Supreme Court filed an order, S223264, accepting the State Bar Court's discipline recommendation in case No. 13-O-16138, in which Respondent stipulated to three counts of misconduct, including failing to obey court orders, failing to report judicial sanctions, and seeking to mislead a judge by making misrepresentations under penalty of perjury. The discipline included a two-year stayed suspension, three years' probation, and a

thirty-day period of actual suspension. This order was properly served on Respondent and became effective on March 27, 2015.¹ In addition, a copy of the stipulation and this court's order approving the same had previously been properly served on Respondent on October 30, 2014.

On March 9, 2015, the Office of Probation sent Respondent a reminder letter regarding the probation conditions at his official membership address. This letter was not returned as undeliverable or for any other reason.

On March 18, 2015, the Office of Probation conducted a meeting with Respondent to review the terms and conditions of his probation. At this meeting, the Office of Probation discussed with Respondent the reporting schedule and requirements. Respondent was advised that if he could not timely meet his deadlines, he could file a motion.

Respondent properly submitted his first quarterly report in July 2015. His October 2015 quarterly report, however, was not compliant because it failed to specify a reporting period. Respondent's probation deputy emailed him on October 16, 2015, to inform Respondent of the deficiency. After Respondent failed to file his next quarterly report (January 2016), his probation deputy mailed and emailed him a letter, on February 16, 2016, setting forth Respondent's non-compliance with the terms of his probation. This letter was sent to Respondent's official membership address and was not returned as undeliverable or for any other reason.

On February 16, 2016, Respondent sent his probation deputy an email. In this email, Respondent wrote, "I hereby resign my license." His probation deputy responded that same day

¹ In the absence of evidence to the contrary, the court finds that the Clerk of the Supreme Court performed his or her duty by transmitting a copy of the Supreme Court's order to Respondent immediately after its filing. (Rule 8.532(a), Cal. Rules of Court; Evid. C. §664; *In Re Linda D.* (1970) 3 Cal.App.3d 567, 571.)

and advised Respondent that he could not simply resign in an email. She also provided Respondent with the information he would need to properly resign. The next day, Respondent discussed his options with a representative from the Office of Chief Trial Counsel and ultimately decided not to resign.

On February 17, 2016, Respondent sent his probation deputy an email apologizing for his non-compliance. In this email, Respondent stated that he would belatedly turn in his January 2016 quarterly report. On February 22, 2016, the Office of Probation received Respondent's January 2016 quarterly report.²

After Respondent failed to file his July 2016 quarterly report, his probation deputy again mailed and emailed him a letter, on September 8, 2016, setting forth Respondent's non-compliance with the terms of his probation. This letter was sent to Respondent's official membership address and was not returned as undeliverable or for any other reason.

Despite these efforts to make Respondent aware of the conditions of his probation and to secure his compliance with them, Respondent did not comply with the following probation conditions:

(a) During the period of probation, Respondent was required to submit written quarterly reports 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 was in effect, stating under penalty of perjury that he had complied with all provisions of the State Bar Act and Rules of Professional Conduct during said period. Respondent did not properly file his October 2015 quarterly report, he filed his January 2016 quarterly report late, and he failed to file his July 2016 quarterly report.

(b) Respondent was ordered to provide the Office of Probation, by March 27, 2016, satisfactory evidence of completion of the State Bar's Ethics School and passage of the test given

² Despite repeated requests from the Office of Probation, Respondent never filed a corrected October 2015 quarterly report.

at the end of that session. Respondent, however, failed to provide evidence of completion of Ethics School and passage of the test given at the end of that session to the Office of Probation.

Aggravation

Prior Discipline

Respondent's prior record of discipline is a factor in aggravation. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct,³ std. 1.5(a).) Respondent has one prior imposition of discipline.

In the underlying matter, the Supreme Court, on February 25, 2015, filed an order in case No. S223264 (State Bar Court case No. 13-O-16138) suspending Respondent from the practice of law for two years, staying execution of the suspension, and placing him on probation for three years, including a 30-day period of actual suspension. As noted above, Respondent, in this matter, stipulated to three counts of misconduct, including failing to obey court orders, failing to report judicial sanctions to the State Bar, and seeking to mislead a judge by making misrepresentations under penalty of perjury. In mitigation, Respondent entered into a pretrial stipulation and had no prior record of discipline. In aggravation, Respondent committed multiple acts of misconduct and caused significant harm to the administration of justice.

Multiple Acts of Misconduct

Respondent's violations of the terms of his disciplinary probation constitute multiple acts of misconduct. (Std. 1.5(b).)

Mitigation

It was Respondent's burden to establish mitigating factors. No mitigating factors were shown by the evidence presented to this court.

³ Future references to standard or std. are to this source.

Discussion

The extent of the discipline to be recommended is dependent, in part, on the seriousness of the probation violation, the member's recognition of the misconduct, and the member's prior efforts to comply with the conditions. (*In the Matter of Potack* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 525, 540.) Having considered these factors, the court concludes that actual suspension for a minimum of two years and until satisfactory proof of fitness to practice and learning and ability in the general law, as requested by the Office of Probation, is both required and sufficient to protect the public in this instance. Respondent was aware of the terms and conditions of his disciplinary probation, yet did not comply with them despite reminders from the Office of Probation. His failure to participate in this proceeding is also a matter of considerable concern to this court.

Recommended Discipline

Accordingly, the court recommends as follows:

1. That the probation of respondent Craig Henry Mar previously ordered in Supreme Court case No. S223264 (State Bar Court case No. 13-O-16138) be revoked;
2. That the previous stay of execution of the suspension be lifted; and
3. That Respondent be actually suspended from the practice of law for a minimum of two years, and he will remain suspended until the following requirement is satisfied:
 - i. He provides proof to the satisfaction of the State Bar Court of his rehabilitation, present fitness to practice, and present learning and ability in the general law pursuant to standard 1.2(c)(1).

California Rules of Court, Rule 9.20

It is further 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.

Multistate Professional Responsibility Examination

It is not recommended that Respondent be ordered to take and pass the Multistate Professional Responsibility Examination as he was previously ordered to do so in Supreme Court case No. S223264.

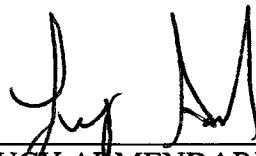
Costs

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.

Order of Involuntary Inactive Enrollment

Respondent is ordered to be involuntarily enrolled inactive under Business and Professions Code section 6007, subdivision (d)(1).⁴ This inactive enrollment order will be effective three calendar days after the date upon which this order is served.

Dated: December 5, 2016



LUCY ARMENDARIZ
Judge of the State Bar Court

⁴ Any period of involuntary inactive enrollment will be credited against the period of actual suspension ordered. (Bus. & Prof. Code, § 6007, subd. (d)(3).)

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 San Francisco, on December 5, 2016, I deposited a true copy of the following document(s):

ORDER GRANTING MOTION TO REVOKE PROBATION AND ORDER OF INACTIVE ENROLLMENT

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 San Francisco, California, addressed as follows:

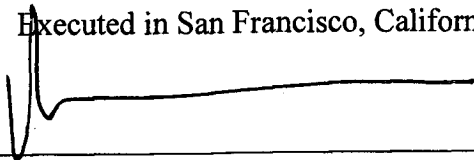
CRAIG H. MAR
1073 WALKER AVE
OAKLAND, CA 94610

- by certified mail, No. , with return receipt requested, through the United States Postal Service at , California, addressed as follows:

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

Terrie L. Goldade, Office of Probation, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on December 5, 2016.



Vincent Au
Case Administrator
State Bar Court