



PUBLIC MATTER

FILED
LOS
APR - 2 2019
STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

**STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT - LOS ANGELES**

In the Matter of)
DOUGLAS ROBERT SHOEMAKER,)
State Bar No. 230379)
_____)
Case No. 18-N-14227; 18-O-14263
(Consolidated) CV
DECISION

Introduction¹

In this contested disciplinary matter, respondent Douglas Robert Shoemaker (Respondent) is charged with one count of failure to obey California Rules of Court, rule 9.20 and one count of failure to comply with various other disciplinary probation conditions. Having considered the facts and the law, as well as the mitigation and aggravation, the court finds Respondent culpable of all the alleged misconduct and recommends that he be actually suspended for two years and until he establishes his rehabilitation under standard 1.4(c)(ii), Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct, in view of his ultimate compliance with probation conditions and his substantial evidence in mitigation.

¹ Unless otherwise indicated, all references to rules refer to the California Rules of Court. Furthermore, all statutory references are to the Business and Professions Code, unless otherwise indicated.

Significant Procedural History

The Office of Chief Trial Counsel of the State Bar of California (OCTC) initiated this proceeding by filing a notice of disciplinary charges (NDC) against Respondent on July 20, 2018. Respondent filed a response to the NDC on August 29, 2018.

On January 7, 2019, the parties filed a Stipulation as to Facts and Admission of Documents. A one-day trial was held on that same date. The matter was submitted for decision at the conclusion of the trial. The parties submitted closing briefs on January 22, 2019.

Findings of Fact and Conclusions of Law

Respondent was admitted to the practice of law in California on April 26, 2004, and has been licensed by the State Bar of California at all times since that date.

The parties entered into a pre-trial stipulation of facts that established by clear and convincing evidence that Respondent is culpable of the charged acts. The trial was limited to consideration of the appropriate level of discipline.

Facts

On December 29, 2017, the Supreme Court ordered Respondent to comply with California Rules of Court, rule 9.20, in Supreme Court case No. S237419 (State Bar Court case No. 17-PM-04290).

This Supreme Court order required Respondent to perform the acts specified in subdivision (a) of California Rules of Court, rule 9.20 by notifying clients and opposing counsel of Respondent's suspension and returning unearned fees by February 27, 2018. The Supreme Court order also required Respondent to perform the acts specified in subdivision (c) of that rule by filing with the Office of Probation proof of compliance with subdivision (a) by March 9, 2018.

This Supreme Court order additionally required Respondent to comply with probation conditions, including the condition that he contact the Office of Probation by February 27, 2018, to schedule a meeting. The order also required Respondent to schedule a meeting and meet with his probation deputy, and to submit quarterly reports to the Office of Probation every January 10, April 10, July 10 and October 10 during the probationary period.

Respondent failed to comply with various probation terms, including the requirement that he contact the Office of Probation by February 27, 2018, to schedule a required meeting with his probation deputy, and the requirement that he actually hold the meeting with the probation deputy. Respondent also failed to file the rule 9.20(c) declaration of compliance with the State Bar Court by March 9, 2018. Finally, Respondent failed to submit the quarterly reports due on April 10, 2018, and July 10, 2018.

After discussing the filed charges with OCTC in mid-August of 2018, Respondent filed his 9.20(c) affidavit and his outstanding quarterly reports on August 29, 2018. On October 15, 2018, Respondent held the required meeting with his probation deputy.

At trial, Respondent credibly testified that he suffers from major depressive disorder that has been ongoing for two to three years. His first wife died of a heart attack, and he never properly processed her death. In late 2015, he found his second wife unresponsive in their bedroom. She was near death and spent multiple weeks in the intensive care unit. Thereafter, she spent significant time in rehabilitation. During this time, Respondent learned that she had at least one extra-marital affair, and he began to recognize that she had been emotionally abusive towards him. In early 2016 and through 2017, she left him and moved back to her home country of Canada. She left him with all of her medical bills and household bills. He eventually had to sell his house at a loss of mid-\$20,000. He ignored people and his health - all hallmarks of depression - and had suicidal thoughts. In the last eight months he started to admit to himself

that he had depression. He admits that in the midst of this emotional and financial turmoil, submitting documents to the probation office was not a high priority. He became non-functional and even stopped eating. At the urging of friends, and in light of his troubles with the State Bar, he started therapy. Respondent admits that he “is still not in great shape” but states that therapy has improved his condition. He credibly testified that the awareness and admission of his depression has started to bring healing. He has now placed value and importance on his physical and mental health.

In support of his position, Respondent offered into evidence a letter from his therapist. This letter was sent to OCTC directly from Respondent’s therapist, and Respondent saw it for the first time at trial after OCTC disclosed it to Respondent at trial. According to the therapist, Respondent has been treating with her in psychotherapy on a weekly basis since October 2018. She has diagnosed him with Major Depressive Disorder dating back at least two years. She opined that the disorder has had a negative impact on his ability to function normally.

Conclusions of Law

Count One – Case No. 18-N-14227 – Failure to Timely Comply with Rule 9.20

If an attorney has been ordered to comply with rule 9.20(a), rule 9.20(c) requires that attorney to file with the State Bar Court an affidavit showing compliance with the provisions of 9.20(a) within the time specified in the order. Respondent was required by the Supreme Court’s order to file an affidavit of compliance by March 9 2018, which he willfully failed to do.

Count Two – Case No. 18-O-14263 - § 6068, Subd. (k) [Failure to Comply with Probation]

Section 6068, subdivision (k), provides that an attorney has a duty to comply with all conditions attached to any disciplinary probation. By willfully failing to contact the Office of Probation by February 27, 2018, to schedule a required meeting with his probation deputy and to actually hold the meeting with the probation deputy, and to submit the quarterly reports due on

April 10, 2018, and July 10, 2018, Respondent failed to comply with conditions attached to his disciplinary probation, in willful violation of section 6068, subdivision (k).

Aggravation²

The State Bar bears the burden of proving aggravating circumstances by clear and convincing evidence. (Std. 1.5.) The court finds the following with respect to aggravating circumstances.

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

Respondent has been previously disciplined on two occasions. On August 4, 2016, in case No. 15-O-14304, Respondent stipulated that he falsely reported to the State Bar, under penalty of perjury, that he had complied with his Minimum Continuing Legal Education (MCLE) requirements, when in fact he had not complied with these requirements, in violation of section 6106. Respondent also stipulated that he failed to cooperate or participate in a State Bar disciplinary investigation, in violation of section 6068, subdivision (i). As a result, the Supreme Court ordered, among other things, that Respondent be suspended from the practice of law for 60 days.

Subsequently, on October 20, 2017, in case No. 17-PM-04290, the State Bar Court determined that Respondent failed to comply with conditions of his probation by failing to contact his probation deputy and schedule the required meeting, failing to meet with his probation deputy, and failing to timely submit quarterly probation reports due April 10 and July 10, 2017. The Supreme Court ordered, among other things, that Respondent be suspended from the practice of law for six months and that Respondent comply with California Rules of Court, rule 9.20.

² All references to standards are to the Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct.

The court assigns substantial weight to Respondent's prior record of discipline.

Multiple Acts (Std. 1.5(b).)

As stated above, Respondent failed to schedule the required meeting with his probation deputy, failed to hold the meeting with the probation deputy, failed to submit the quarterly reports due on April 10 and July 10, 2018, and failed to file the rule 9.20(c) declaration of compliance with the State Bar Court by March 9, 2018. Respondent's multiple acts of misconduct constitute an aggravating factor. (See *In the Matter of Hunter* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 63, 76 [violation of three separate probation conditions constitutes multiple acts of wrongdoing as an aggravating factor].)

Mitigation

Respondent bears the burden of proving mitigating circumstances by clear and convincing evidence. (Std. 1.6.) The court finds the following with regard to mitigating circumstances.

Emotional Difficulties (Std. 1.6(d).)

Standard 1.6(d) provides as relevant here that mitigating circumstances may include "extreme emotional difficulties . . . suffered by the lawyer at the time of the misconduct and established by expert testimony as directly responsible for the misconduct, provided that . . . the lawyer established by clear and convincing evidence that the difficulties or disabilities no longer pose a risk that the lawyer will commit misconduct." OCTC argues that Respondent has failed to establish this mitigating circumstance by clear and convincing evidence because his therapist did not testify and did not sign the letter which Respondent introduced into evidence to support his claim that depression was the cause of his misconduct in this matter. OCTC also argues that the letter from Respondent's therapist fails to establish a sufficient nexus shown between

Respondent's depression and his misconduct, and that there is insufficient evidence that Respondent's emotional difficulties no longer pose a risk of further misconduct.

As to OCTC's first argument, Respondent testified that the letter was from his therapist and described his diagnosis and treatment. This was sufficient to authenticate the letter for its admission and to allow the court to determine the appropriate weight to give it. (Cf. *People v. Valdez* (2011) 201 Cal.App.4th 1429, 1434-1435.) This court deems the letter to be sufficient evidence that an expert in the field diagnosed Respondent and treated him. The court also notes that, as previously stated, the letter was sent from the therapist directly to OCTC, and Respondent saw it for the first time at trial.³

In addition, the therapist's letter states that she has treated Respondent since October 26, 2018, that she has diagnosed him with Major Depressive Disorder currently and for at least the previous two years, and that this condition "has had a negative impact on his ability to function and has resulted in various consequences in different, significant areas of his life." The letter specifies that, among other symptoms, Respondent has had fatigue and loss of energy. The court concludes from this evidence that, due to his ongoing depression, Respondent has been unable to fully comply with everyday activities, including necessary work activities, which would include compliance with disciplinary requirements.

As to whether Respondent's depression continues to pose a risk for future misconduct, the court notes that Respondent's ex-wife and her attendant emotional abuse are out of his life. Similarly, he credibly testified that he has disassociated with former friends who were not good influences, and has established a strong support network. He has admitted to himself that he has depression and has sought help through weekly individual therapy since October 26, 2018.

³ The court also notes that OCTC did not object to the admission of the therapist's letter into evidence at trial. However, this lack of objection does not bar OCTC from presenting its arguments as to the weight the court should now give the evidence.

Moreover, he has taken steps to improve his physical health and to reduce stress. Under these circumstances, Respondent has presented sufficient evidence that “he has undertaken a program of steady progress toward rehabilitation.” (*In the Matter of Deierling* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 552, 560.)

In view of the foregoing, the court gives substantial weight in mitigation to Respondent’s evidence of emotional difficulties.

Cooperation with the State Bar (Std. 1.6(e).)

Standard 1.6(e) provides that an attorney’s spontaneous cooperation displayed toward the State Bar constitutes a mitigating circumstance. Although the parties’ stipulated facts may not have been difficult to prove, Respondent cooperated with the State Bar by entering into a stipulation of facts and admission of documents. Additionally, at trial, he did not deny culpability, but rather argued only over the appropriate level of discipline. (*In the Matter of Johnson* (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179, 190 [where appropriate, more extensive weight in mitigation is accorded those who admit to culpability as well as facts].) Accordingly, Respondent’s cooperation with the State Bar warrants significant consideration in mitigation.

Discussion

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; *Cooper v. State Bar* (1987) 43 Cal.3d 1016, 1025; Std. 1.1.)

In determining the 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. (*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.)

Standard 1.7 provides that if aggravating or mitigating circumstances are found, they should be considered alone and in balance with any other aggravating or mitigating factors. In this case, the standards call for actual suspension as the presumed sanction (std. 2.14) or disbarment or suspension for the 9.20 violation as specified by rule 9.20 itself.

Due to Respondent's prior record of discipline, the court also looks to standard 1.8(b) for guidance. Standard 1.8(b) states, in part, that unless the most compelling mitigating circumstances clearly predominate or the misconduct underlying the prior discipline occurred during the same time period as the current suspension, disbarment is appropriate when an attorney has two prior records of discipline and has been previously ordered to serve a period of actual suspension.

The standards, however, "do not mandate a specific discipline." (*In the Matter of Van Sickle* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 980, 994.) It has long been held that the court is "not bound to follow the standards in talismanic fashion. As the final and independent arbiter of attorney discipline, [the Supreme Court is] permitted to temper the letter of the law with considerations peculiar to the offense and the offender." (*Howard v. State Bar* (1990) 51 Cal.3d 215, 221-222.) Yet, while the standards are not binding, they are entitled to great weight. (*In re Silverton* (2005) 36 Cal.4th 81, 92.)

OCTC recommends that Respondent be disbarred from the practice of law. Respondent requests any level of discipline short of disbarment.

The Supreme Court and Review Department have not historically applied standard 1.8(b) in a rigid fashion.⁴ As the standard provides, the critical issue is whether the most compelling mitigating circumstances clearly predominate to warrant an exception to the severe penalty of disbarment. (See *Barnum v. State Bar* (1990) 52 Cal.3d 104, 113 [disbarment under former std. 1.7(b) imposed where no compelling mitigation]; compare *Arm v. State Bar* (1990) 50 Cal.3d 763, 778-779, 781 [disbarment under former std. 1.7(b) not imposed where compelling mitigation included lack of harm and no bad faith].)

Discipline less than disbarment has been imposed in California Rules of Court, rule 9.20 violation cases where the attorney has demonstrated good faith, significant mitigation, and little or no aggravation. (See, e.g., *Shapiro v. State Bar* (1990) 51 Cal.3d 251; *Durbin v. State Bar* *supra* 23 Cal.3d 461; *In the Matter of Rose* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 192; *In the Matter of Friedman* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr.527.)

Although a California Rules of Court, rule 9.20 violation is deemed a serious ethical breach for which disbarment generally is considered the appropriate discipline (*Bercovich v. State Bar* (1990) 50 Cal.3d 116, 131), Respondent has demonstrated significant mitigation warranting deviation from the standard discipline in this case. In sum, the court finds the presence of “compelling mitigating circumstances” here called for by standard 1.8(b). Moreover, although untimely, Respondent ultimately complied with the probation conditions. Accordingly, this court recommends a level of discipline other than disbarment.

In determining that an appropriate level of discipline short of disbarment is warranted, this court is guided by *In the Matter of Rose, supra*, 3 Cal. State Bar Ct. Rptr. 192. There, as here, in a consolidated matter, the attorney was found culpable of failing to comply with former

⁴ Standard 1.8(b) was previously identified as former standard 1.7(b). Standard 1.8(b) is more limited than former standard 1.7(b), but is applicable here.

rule 955 and violating the terms of his disciplinary probation. In the probation matter, Rose failed to timely file three quarterly reports and two client trust account audits. (*Id.* at p. 199.) Rose had attempted to file his former rule 955 affidavit two weeks late. (*Id.* at p. 200.) In aggravation, Rose had two prior impositions of discipline and there were multiple acts of misconduct. In mitigation, Rose demonstrated recognition of wrongdoing, there was a lack of harm, and Rose had engaged in pro bono activities. (*Id.* at pp. 204-205.) The attorney received an actual suspension of nine months for the former rule 955 violation and two years of actual suspension for the probation matter, the two terms of actual suspension to run concurrently. (*Id.* at pp. 206-208.)

Here, Respondent filed his rule 9.20 affidavit five months late. He also failed to comply with his probation conditions by failing to timely contact the Office of Probation, failing to timely schedule a meeting with and to timely meet with the Office of Probation, and failing to timely file two quarterly probation reports with the Office of Probation. In aggravation, as in *Rose*, Respondent has two prior impositions of discipline, and he engaged in multiple acts of misconduct. In mitigation, he presented evidence of emotional difficulties during the time of his misconduct, and he cooperated with the State Bar. The court views Respondent's rule 9.20 violation as being slightly more serious than that in *Rose*, as Respondent was aware in this case at the time that he filed the late rule 9.20(c) affidavit that the State Bar was already taking action against him based on his failure to timely file the *affidavit*. However, Respondent was suffering from an emotional difficulty at the time which was not present in *Rose* and which is now well on its way to being resolved. On balance, the court views the present case as equally serious and worthy of similar discipline to that in *Rose*.

In view of the foregoing, including the nature and extent of the misconduct, the aggravating and mitigating circumstances, as well as the case law and standards, the court finds

that, at a minimum, a two-year actual suspension, along with a requirement that Respondent establish his rehabilitation in a standard 1.4(c)(ii) proceeding, is necessary to protect the public, the courts, and the legal profession; to maintain high professional standards; and to preserve public confidence in the legal profession.

Recommendations

It is recommended that respondent DOUGLAS ROBERT SHOEMAKER, State Bar number 230379, be suspended from the practice of law in the State of California for three years, that execution of that suspension be stayed, and that Respondent be placed on probation for three years with the following conditions.

Conditions of Probation

Actual Suspension

Respondent must be suspended from the practice of law for a minimum of the first two years of Respondent's probation 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. 1.4(c)(ii).)

Review Rules of Professional Conduct

Within 30 days after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must (1) read the California Rules of Professional Conduct (Rules of Professional Conduct) and Business and Professions Code sections 6067, 6068, and 6103 through 6126 and (2) provide a declaration, under penalty of perjury, attesting to Respondent's compliance with this requirement, to the State Bar's Office of Probation in Los Angeles (Office of Probation) with Respondent's first quarterly report.

Comply with State Bar Act, Rules of Professional Conduct, and Probation Conditions

Respondent must comply with the provisions of the State Bar Act, the Rules of Professional Conduct, and all conditions of Respondent's probation.

Maintain Valid Official State Bar Address and Other Required Contact Information

Within 30 days after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must make certain that the State Bar Attorney Regulation and Consumer Resources Office (ARCR) has Respondent's current office address, email address, and telephone number. If Respondent does not maintain an office, Respondent must provide the mailing address, email address, and telephone number to be used for State Bar purposes. Respondent must report, in writing, any change in the above information to ARCR, within ten (10) days after such change, in the manner required by that office.

Meet and Cooperate with Office of Probation

Within 15 days after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must schedule a meeting with Respondent's assigned probation court specialist to discuss the terms and conditions of Respondent's discipline and, within 30 days after the effective date of the court's order, must participate in such meeting. Unless otherwise instructed by the Office of Probation, Respondent may meet with the probation court specialist in person or by telephone. During the probation period, Respondent must promptly meet with representatives of the Office of Probation as requested by it and, subject to the assertion of applicable privileges, must fully, promptly, and truthfully answer any inquiries by it and provide to it any other information requested by it.

State Bar Court Retains Jurisdiction/Appear Before and Cooperate with State Bar Court

During Respondent's probation period, the State Bar Court retains jurisdiction over Respondent to address issues concerning compliance with probation conditions. During this

period, Respondent must appear before the State Bar Court as required by the court or by the Office of Probation after written notice mailed to Respondent's official State Bar address, as provided above. Subject to the assertion of applicable privileges, Respondent must fully, promptly, and truthfully answer any inquiries by the court and must provide any other information the court requests.

Quarterly and Final Reports

a. Deadlines for Reports. Respondent must submit written quarterly reports to the Office of Probation no later than each January 10 (covering October 1 through December 31 of the prior year), April 10 (covering January 1 through March 31), July 10 (covering April 1 through June 30), and October 10 (covering July 1 through September 30) within the period of probation. If the first report would cover less than 30 days, that report must be submitted on the next quarter date and cover the extended deadline. In addition to all quarterly reports, Respondent must submit a final report no earlier than ten (10) days before the last day of the probation period and no later than the last day of the probation period.

b. Contents of Reports. Respondent must answer, under penalty of perjury, all inquiries contained in the quarterly report form provided by the Office of Probation, including stating whether Respondent has complied with the State Bar Act and the Rules of Professional Conduct during the applicable quarter or period. All reports must be: (1) submitted on the form provided by the Office of Probation; (2) signed and dated after the completion of the period for which the report is being submitted (except for the final report); (3) filled out completely and signed under penalty of perjury; and (4) submitted to the Office of Probation on or before each report's due date.

c. Submission of Reports. All reports must be submitted by: (1) fax or email to the Office of Probation; (2) personal delivery to the Office of Probation; (3) certified mail, return

receipt requested, to the Office of Probation (postmarked on or before the due date); or (4) other tracked-service provider, such as Federal Express or United Parcel Service, etc. (physically delivered to such provider on or before the due date).

d. Proof of Compliance. Respondent is directed to maintain proof of Respondent's compliance with the above requirements for each such report for a minimum of one year after either the period of probation or the period of Respondent's actual suspension has ended, whichever is longer. Respondent is required to present such proof upon request by the State Bar, the Office of Probation, or the State Bar Court.

Ethics School

It is not recommended that Respondent be ordered to attend the State Bar Ethics School because Respondent was ordered to attend this Ethics School on December 29, 2017, effective January 28, 2018, in Supreme Court order S237419, and Respondent remains under an obligation to comply with this requirement.

Proof of Compliance with Rule 9.20

Respondent is directed to maintain, for a minimum of one year after commencement of probation, proof of compliance with the Supreme Court's order that Respondent comply with the requirements of California Rules of Court, rule 9.20, subdivisions (a) and (c). Such proof must include: the names and addresses of all individuals and entities to whom Respondent sent notification pursuant to rule 9.20; a copy of each notification letter sent to each recipient; the original receipt or postal authority tracking document for each notification sent; the originals of all returned receipts and notifications of non-delivery; and a copy of the completed compliance affidavit filed by Respondent with the State Bar Court. Respondent is required to present such proof upon request by the State Bar, the Office of Probation, or the State Bar Court.

Mental Health Condition

Respondent must obtain psychiatric or psychological counseling or treatment to address mental health issues, at Respondent's own expense, from a duly licensed psychiatrist, psychologist, clinical social worker, or marriage and family therapist (mental health professional), and must provide such licensed individual with a copy of this decision. However, if such mental health professional determines at any time that no additional counseling or treatment is necessary, Respondent may furnish a written statement from the mental health professional to that effect to the Office of Probation. Respondent must commence counseling or treatment no later than 30 days after the effective date of the Supreme Court order imposing discipline in this proceeding and must comply with any counseling or treatment plan developed by the mental health professional. Respondent must certify under penalty of perjury in each quarterly report and in the final report that Respondent has obtained and complied with such psychiatric or psychological counseling or treatment plan during the period covered by such report. Within 60 days of written notice from the Office of Probation, Respondent must provide satisfactory evidence of such compliance to the Office of Probation. The Office of Probation may require that such satisfactory evidence be a letter from the mental health professional on such individual's letterhead, or on a form approved by the Office of Probation, that Respondent has obtained such psychiatric or psychological counseling or treatment and that Respondent has complied with a counseling or treatment plan during the period specified in the written notice.

Commencement of Probation

The period of probation will commence on the effective date of the Supreme Court order imposing discipline in this matter. At the expiration of the probation period, if Respondent has complied with all the conditions of probation, the period of stayed suspension will be satisfied and that suspension will be terminated.

Professional Responsibility Examination

It is further recommended that Respondent be ordered to take and pass the Multistate Professional Responsibility Examination administered by the National Conference of Bar Examiners within one year after the effective date of the Supreme Court order imposing discipline in this matter and to provide satisfactory proof of such passage to the State Bar's Office of Probation within the same period. Failure to do so may result in suspension. (Cal. Rules of Court, rule 9.10(b).) If Respondent provides satisfactory evidence of the taking and passage of the above examination after the date of this decision, but before the effective date of the Supreme Court's order in this matter, Respondent will nonetheless receive credit for such evidence toward his duty to comply with this requirement.

Rule 9.20

It is further recommended that Respondent be ordered to comply with the requirements of 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 days, respectively, after the effective date of the Supreme Court order imposing discipline in this matter.⁵ Failure to do so may result in disbarment or suspension.


Costs

It is further recommended 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

⁵ For purposes of compliance with rule 9.20(a), the operative date for identification of "clients being represented in pending matters" and others to be notified is the filing date of the Supreme Court order, not any later "effective" date of the order. (*Athearn v. State Bar* (1982) 32 Cal.3d 38, 45.) Further, Respondent is required to file a rule 9.20(c) affidavit even if Respondent has no clients to notify on the date the Supreme Court filed its order in this proceeding. (*Powers v. State Bar* (1988) 44 Cal.3d 337, 341.) In addition to being punished as a crime or contempt, an attorney's failure to comply with rule 9.20 is, inter alia, cause for disbarment, suspension, revocation of any pending disciplinary probation, and denial of an application for reinstatement after disbarment. (Cal. Rules of Court, rule 9.20(d).)

provided in Business and Professions Code section 6140.7 and as a money judgment. Unless the time for payment of discipline costs is extended pursuant to subdivision (c) of section 6086.10, costs assessed against an attorney who is actually suspended or disbarred must be paid as a condition of reinstatement or return to active status.

Dated: April 2, 2019



CYNTHIA VALENZUELA
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 Court Specialist 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 April 2, 2019, 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:

Douglas R. Shoemaker
10341 Magnolia Blvd Apt 103
N Hollywood, CA 91601-4100

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

William Todd, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on April 2, 2019.



Paul Songco
Court Specialist
State Bar Court