

IN THE  
**SUPREME COURT OF THE STATE OF ARIZONA**  
BEFORE THE OFFICE OF THE PRESIDING DISCIPLINARY JUDGE  
1501 W. WASHINGTON, SUITE 102, PHOENIX, AZ 85007-3231

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IN THE MATTER OF A MEMBER OF THE STATE  
BAR OF ARIZONA,

**CHRISTOPHER S. SHORT,**  
**Bar No. 027130**

Respondent

**No. PDJ-2014-9049**

**ORDER IMPOSING REPRIMAND  
AND PROBATION**

**[State Bar No. 12-3129]**

**FILED JULY 23, 2014**

On December 20, 2013, pursuant to Supreme Court Rule 55 and Rule 60, the Attorney Discipline Probable Cause Committee (ADPCC) made a finding of probable regarding the alleged conduct of Mr. Short. The committee issued an Order of Admonition, Probation, LOMAP, Fee Arbitration, Practice Monitor and Costs. Mr. Short did not request a formal proceeding be instituted by filing a demand with the ADPCC. As a result he is deemed to have consented to the admonition and waived any objection to its issuance. Supreme Court Rule 60(a)(5)(C), governs these proceedings.

On June 11, 2014, a Notice of Non-Compliance with Terms of Probation was filed and served upon Mr. Short by the State Bar of Arizona. The Presiding Disciplinary Judge heard the matter during a one day hearing on July 8, 2014. Mr. Short in his opening comments stipulated the facts are not disputed but disputed the conclusions and resolution proposed by the State Bar. All exhibits were stipulated admitted.

The Order issued by the ADPCC stated Mr. Short "shall identify a practice monitor within thirty (30) day of the date of this order." Mr. Short failed to do so. He presented no evidence of any effort to do so within that thirty day period. The Order also mandated that he "contact the Director of the State Bar's Law Office Management Assistance Program (LOMAP), at (602) 340-7332 within thirty (30) days from the date of service of this Order." The evidence was undisputed. Mr. Short made no effort to contact LOMAP until well after that thirty day period. [Exhibit 1, Bates 003 and 002].

The ADPCC Order also placed Mr. Short on Probation under specified terms. Those terms included any terms developed by the Director of LOMAP. [Exhibit 1, Bates 002]. Ms. Roberta Tepper is the Director of Lawyer Assistance Programs, including LOMAP. Those additional terms of probation were developed by LOMAP and submitted to Mr. Short by email dated March 24, 2014. The email required Mr. Short to sign and return those terms of probation not later than March 31, 2014. [Exhibit 3]. The evidence was undisputed. Mr. Short knowingly refused to cooperate, ignored the email and did not return the terms nor respond to the email. As a result, a formal letter of April 2, 2014 was sent to Mr. Short directing their return. [Exhibit 4]. The evidence was again undisputed. Mr. Short knowingly ignored the letter, refused to cooperate and did not return the terms of probation nor respond to the letter.

As a result of Mr. Short's refusal to cooperate, or sign and return the terms of probation or even respond, a "second reminder" dated April 8, 2014 was mailed and emailed to Mr. Short regarding these probation terms. [Exhibit 4, 5]. Rather than sign and return the terms, Mr. Short unilaterally modified those terms and returned

them dated April 8, 2014. They were received by LOMAP on April 11, 2014. [Exhibit 6].

On April 11, 2014, the original unmodified terms of probation were again emailed to Mr. Short. That email referred Mr. Short to the original Order issued by ADPCC which by its terms required him to comply with the terms of probation as written. Mr. Short was also reminded of his obligation regarding a practice monitor. That email further stated, "Please provide an explanation of the attempts you have made and attorneys you have approached to serve in that capacity." Another copy of the monitor guidelines was attached. [Exhibit 7].

On April 14, 2014, Mr. Short finally responded and argued "the contractual principle of impossibility" in response to the April 11, 2014 email. That theory of "impossibility" was summarized with his statement, "How can I go up to a stranger and ask something like this?" At the hearing, Ms. Tepper testified that she reviewed with him methods to make contact with family law practitioners that might agree to monitor him. She also suggested Mr. Short join a State Bar family law section or contact executive council members within a similar section. Ms. Tepper told him LOMAP could help but it was his responsibility to find monitor. Mr. Short did not dispute the conversation occurred but testified he had no clear memory of it.

Ms. Tepper by email dated April 14, 2014, reminded him of the conversation. [Exhibit 9]. In that email, Ms. Tepper again requested Mr. Short, "Please explain what efforts you have made to find a practice monitor in the time since you met with me at the beginning of March." Mr. Short offered no evidence of any attempt by him to pursue a monitor.

By email dated April 15, 2014, Mr. Short stated he did not recall her suggestion to join a section, ignored that suggestion and instead knowingly avoided his responsibility by arguing he had the "impression" "your office was going to look into the practice monitor issue for me." Mr. Short was aware of and had read the ADPCC Order which required him to identify a practice monitor. Ms. Tepper by email dated April 15, 2014, reminded Mr. Short of that Order and gave further suggestions to Mr. Short. He ignored them and knowingly, blame shifted his ordered responsibility.

In her email, Ms. Tepper again directed "If you are unable to make progress after such attempts, please let me know who you have contacted and their responses and I will discuss this with Bar Counsel before proceeding further. In the meantime, please sign the original Terms and return them promptly." (Emphasis added). Mr. Short knowingly failed to respond directly to her. He testified at the hearing he chose to respond "technically" by submitting information within his quarterly report to the State Bar. He did not copy Ms. Tepper as requested by her nor LOMAP with that report.

On April 22, 2014, an email was sent to Mr. Short again reminding him he had not returned the terms of probation. [Exhibit 11]. Mr. Short signed the term on April 23, 2014. [Exhibit 15]. No reasonable explanation was offered by Mr. Short for his refusal to timely return the terms of probation or to respond to the emails. Mr. Short received each of the correspondences described above. The repeated failures to respond to these written communications were unaddressed by Mr. Short in his testimony. It is the finding of this Court Mr. Short knowingly refused to cooperate or respond to the communications.

Mr. Short acknowledged he received the LOMAP Monitoring Guidelines and read them. Knowing those guidelines precluded Mr. Orile from serving as a practice monitor, Mr. Short spoke with Mr. Orile about serving in that capacity. There is no evidence demonstrating Mr. Short made any meaningful efforts to locate a practice monitor prior to the time of his contacting Mr. Orile. Despite that lack of effort, Mr. Short testified he informed Mr. Orile he was having a hard time locating a monitor. [Short Testimony and Exhibit 16]. In his testimony, Mr. Short swore he gave Mr. Orile a copy of the guidelines. Mr. Short also testified Mr. Orile had not been "of counsel" with him for at least 18 months and they had not worked on cases together during that time. It is untrue Mr. Orile had not been "of counsel" with Mr. Short for any significant time prior to Mr. Short requesting he be a practice monitor.

Mr. Orile recognized his conflict and on April 23, 2014, contacted LOMAP by phone and left a voice message. His statement to LOMAP contradicts the testimony of Mr. Short. Mr. Orile stated Mr. Short had spoken to him about being a practice monitor. Mr. Orile expressed a concern as he was of counsel with Mr. Short and worked on the same files with him on a part-time basis. It is apparent Mr. Orile read the guidelines given to him by Mr. Short as he expressed his concern that it may be a conflict for him to serve in that capacity. [Exhibit 12]. On that same date, Mr. Orile again called and spoke with Robert Tepper informing her that he was a "co-worker" with Mr. Short.

In his quarterly report to the State Bar, Mr. Short stated he had casually asked Steve Keist to be his practice monitor. It was undisputed Mr. Short and Mr. Keist were currently opposing counsel in a family law action in the Superior Court making

Mr. Keist ineligible to serve as a practice monitor. Mr. Short knew Mr. Keist did not qualify to be his practice monitor.

Mr. Short defended his inaction in the hearing by explaining it was his impression was LOMAP was to assist him. His testimony is not credible. Nothing in his testimony nor the exhibits demonstrates he made any effort to determine what efforts LOMAP had taken. The testimony of Ms. Tepper is clear and credible. She made numerous efforts despite Mr. Short's refusal to cooperate. Faced with the circumstance of Mr. Short's refusal to act, Mr. Tepper contacted various individuals who had previously served as monitors.

Ms. Tepper testified at the hearing she was still continuing to make that effort. She testified she had contacted and had yet to hear back from Mr. Kraig Marton, a prior monitor. Her written correspondences to Mr. Short and the Order of ADPCC are clear the responsibility lies with Mr. Short to make such efforts. He knowingly refused to. Mr. Short acknowledges the suggestions made by Ms. Tepper but intentionally did not follow any of them. His repeated refusal to respond to emails and refusal to return the terms of probation are without excuse. His demeanor as a witness was evasive and when combined with his inaction, not credible. The State Bar has proven Mr. Short has knowingly violated his terms of probation.

After the hearing concluded, Mr. Short filed a Notice of Confirmation of Practice Monitor. In it he states "Respondent has indeed secured a Practice Monitor ("PM") which has been approved by the State Bar of Arizona." The exhibit attached to his pleading are a string of emails which begin with an email by Tracy Ward of LOMAP. Her email informed Mr. Short, "Kraig Marton has agreed to be your monitor..." The statement of Mr. Short that he secured a Practice Monitor is misleading at best but

consistent with the inaction and blame shifting of Mr. Short throughout these proceedings. Almost seven (7) months into his probation period, Mr. Short at the time of the hearing had knowingly avoided his obligations and the public remained unprotected as a result. It appears unlikely a reprimand will offer any protection to the public and offers even less in any effort to rehabilitate Mr. Short.

The objective of lawyer discipline is not to punish a lawyer but, rather, to protect the public, the profession, and the administration of justice; deter similar conduct among other lawyers; preserve public confidence in the integrity of the bar; foster confidence in the legal profession and the self-regulatory process; and assist, if possible, in the rehabilitation of an errant lawyer. *In re Peasley*, 208 Ariz. 27, 90 P.3d 764 (2004); *In re Scholl*, 200 Ariz. 222, 25 P.3d 710 (2001); *In re Walker*, 200 Ariz. 155, 24 P.3d 602 (2001); *In re Rivkind*, 164 Ariz. 154, 791 P.2d 1037 (1990); *In re Hoover*, 161 Ariz. 529, 779 P.2d 1268 (1989); and *In re Neville*, 147 Ariz. 106, 708 P.2d 1297 (1985).

*Standard 7.2, Violations of Other Duties Owed as a Professional*, provides that Suspension is generally appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed as a professional and causes injury or potential injury to a client, the public, or the legal system.

In *In re Davis*, 181 Ariz. 263, 889 P.2d 621 (1995), an informal reprimand and probation was initially imposed. Thereafter, Ms. Davis failed to comply with her terms of probation and noncompliance proceedings ensued. Ultimately, an additional sanction of a sixty (60) day suspension was ordered and the previous terms and conditions of probation imposed in the underlying discipline matter were affirmed. A

Respondent's failure to comply with terms and conditions of probation are considered serious misconduct.

Notwithstanding, a period of suspension would likely nullify the generous willingness of Mr. Marton to serve as his practice monitor. While Mr. Short has offered nothing to demonstrate any intention to comply with his probation, it may be that the efforts of Mr. Marton will serve to rehabilitate Mr. Short.

Now Therefore,

**IT IS ORDERED** Christopher S. Short is reprimanded effective the date of this Order.

**IT IS FURTHER ORDERED** placing Christopher S. Short on probation for a period of two (2) years with the terms and conditions imposed in SB File No. 12-3129. The Probation period will be effective upon the filing by Bar Counsel with the Disciplinary Clerk in this action that Mr. Marton has formally undertaken his service as a practice monitor and shall conclude two (2) years from that date.

**IT IS FURTHER ORDERED** in the event Mr. Marton has not formally undertaken his service as a practice monitor by September 1, 2014, the State Bar shall immediately file a Notice of Non-Compliance with Terms of Probation.

**DATED** this 23<sup>rd</sup> day of July, 2014.

*William J. O'Neil*

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**William J. O'Neil, Presiding Disciplinary Judge**

COPY of the foregoing e-mailed/mailed  
this 23<sup>rd</sup> day of July, 2014, to:



Shauna R. Miller  
Senior Bar Counsel  
State Bar of Arizona  
4201 N. 24<sup>th</sup> Street, Suite 100  
Phoenix, AZ 85016-6266  
Email: lro@staff.azbar.org

Christopher S. Short  
Christopher S. Short, PC  
5704 W. Palmyra Avenue  
Glendale, AZ 85311-1737  
Email: azchris\_1979@yahoo.com  
Respondent

by: MSmith