

*In re Doran*, 15 ROP 130 (2008)  
**In the Matter of  
MARK DORAN,  
Respondent.**

DISCIPLINARY PROCEEDING  
NO. 08-004

Supreme Court, Disciplinary Tribunal  
Republic of Palau

Heard: September 11, 2008  
Decided: September 11, 2008

Disciplinary Counsel: John K. Rechucher

Counsel for Respondent: *Pro Se*

BEFORE: ARTHURNGIRAKLSONG, Chief Justice; KATHLEEN M. SALII, Associate Justice;  
LOURDES F. MATERNE, Associate Justice.

PER CURIAM:

This is a disciplinary proceeding in which Mark Doran (“Respondent”), an attorney licensed to practice law in the Republic of Palau, is charged with violations of this Court’s Disciplinary Rules and the Palau Rules of Admission for Attorneys and Trial Counselors (hereinafter referred to as the “Disciplinary Rules” and “Rules of Admission” respectively). In its Opinion of July 1, 2008, the Tribunal found by clear and convincing evidence that **¶131** Respondent failed to immediately notify in writing the Clerk of Courts of his suspension in California, and the particulars thereof, therefore violating Rule 10 of the Rules of Admission. Thus, the sole remaining issue for the Tribunal to consider is what, if any, sanctions are appropriate.

**BACKGROUND**

According to Disciplinary Counsel’s report, Respondent was suspended from practicing law in California in 1997 due to his failure to pay his bar dues. In fact, Respondent admits that “he voluntarily changed his status from that of an active member to an inactive member [of the California Bar] in 1992, but he has not paid his inactive membership fee.” The Tribunal takes judicial notice that Respondent is an active member of the Palau Bar, has been a member of the Palau Bar since August 27, 1993, was admitted to the Palau Bar by examination, and has paid his dues to the Palau Bar for the current year.

**APPROPRIATE SANCTION**

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Disciplinary Rule 3 lists the various forms of discipline that may be imposed on lawyers found to be in violation of the Rules. These include disbarment, suspension for not more than five years, public censure, private censure, a fine, or community service. “In determining appropriate sanctions, Tribunals in previous disciplinary proceedings in Palau have referred to the list of aggravating and mitigating circumstances set forth in the ABA Standards for Imposing Lawyer Discipline (1986).” *In re Schluckebier*, 13 ROP 35, 41 (2006) (citing *In re Tarkong*, 4 ROP Intrm. 121, 131 (1994)).

The aggravating factors listed by the ABA Standards are as follows:

(a) prior disciplinary offenses; (b) dishonest or selfish motive; (c) a pattern of misconduct; (d) multiple offenses; (e) bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with rules or orders of the disciplinary agency; (f) submission of false evidence, false statements, or other deceptive practices during the disciplinary process; (g) refusal to acknowledge wrongful nature of conduct; (h) vulnerability of victim; (i) substantial experience in the practice of law; (j) indifference to making restitution.

The mitigating factors are the following:

(a) absence of a prior disciplinary record; (b) absence of a dishonest or selfish motive; (c) personal or emotional problems; (d) timely good faith effort to make restitution or to rectify consequences of misconduct; (e) full and free disclosure to disciplinary board or cooperative attitude toward proceedings; (f) inexperience in the practice of law; (g) character or reputation; (h) physical or mental disability or impairment; (i) delay in disciplinary proceedings; (j) interim rehabilitation; (k) imposition of other penalties or sanctions; (l) **§ 132** remorse; (m) remoteness of prior offenses.

*Id.* “The ultimate prerogative and responsibility to select the appropriate discipline in light of all of the circumstances of this case, however, is our own.” *Id.*

Considering the aggravating factors enumerated in the ABA Standards, Disciplinary Counsel recommends that we find that Respondent has a prior disciplinary offense. In particular, Disciplinary Counsel points to the matter of *In re Doran*, 3 ROP Intrm. 253 (1992), where the Tribunal reviewed Respondent’s delayed reporting of a 1991 suspension and 1992 public censure in California.<sup>1</sup> The Tribunal notes, however, that its review in *In re Doran* did not include

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<sup>1</sup> Respondent was disciplined by the California State Bar in 1992. This issue was raised in a prior disciplinary proceeding where the Disciplinary Tribunal reviewed whether Respondent should have been sanctioned under Rule 11 (a) of the Republic of Palau Disciplinary Rules and Procedures for untimely reporting both his 1991 suspension and his 1992 public censure in California. *In re Doran*, 3 ROP Intrm. 253, 254-55 (1992). The Tribunal found no undue delay by Respondent in reporting both his suspension and public censure to the Chief Justice. *Id.* at 256. In that proceeding, however, Respondent’s 1992 sanction was not considered in relation to Rule 10 of the Rules of Admission or Rule 2 of the Republic of Palau Disciplinary Rules and

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analyses under Rule 10 of the Rules of Admission or Rule 2 of the Disciplinary Rules. Moreover, the Tribunal in *In re Doran* ultimately concluded that Respondent had not violated Rule 11 (a) of the Disciplinary Rules. Such proceeding, however, should have put Respondent on notice of his duty to notify the Clerk of Courts of any suspension.

The Tribunal also considers the relevant mitigating factors enumerated in the ABA Standards. Disciplinary Counsel recommends that we find that Respondent has provided a full and free disclosure to the disciplinary board and has held a cooperative attitude toward these proceedings. We agree with Disciplinary Counsel's recommendation and make this finding. Disciplinary Counsel recommends that Respondent 1) be immediately suspended from the practice of law in Palau; 2) be allowed to apply for reinstatement to the Palau Bar after three (3) months of suspension; 3) be required to pay a fine in the amount of \$1000.00; 4) be required to pay Disciplinary Counsel's costs and fees; and 5) be publically sanctioned. The Tribunal believes this recommendation to be too harsh in light of the violation. Thus, the only sanction that shall be imposed on Respondent is the requirement that he pay the fees and expenses of the Disciplinary Counsel in this matter.

In order to determine Disciplinary Counsel's fees and expenses, Disciplinary Counsel should submit an itemized list of such costs and fees to the Tribunal and to Respondent. Once Respondent receives the itemized list, he shall have ten days to object to the amount requested. In the absence of any objection, he shall pay the amount within thirty days. If an objection is filed, it shall be set for further proceedings.

The Tribunal notes that due to his current active status as a member of the Palau Bar and **¶133** his admission by examination, Respondent may remain suspended from practicing law in California. Such suspension has no affect on his ability to practice law in Palau. Respondent, however, must notify the Clerk of Court of any future suspensions or sanctions, if any, that occur in California or elsewhere.