

STATE BAR COURT OF CALIFORNIA  
HEARING DEPARTMENT - LOS ANGELES

In the Matter of	)	Case No.: <b>12-PM-13929-RAP (S197330)</b>
	)	
<b>JENNIFER YVONNE WILLIAMS,</b>	)	<b>ORDER GRANTING MOTION TO</b>
	)	<b>REVOKE PROBATION AND FOR</b>
<b>Member No. 242146,</b>	)	<b>INVOLUNTARY INACTIVE</b>
	)	<b>ENROLLMENT</b>
<u>A Member of the State Bar.</u>	)	

**Introduction**<sup>1</sup>

In this probation revocation proceeding, respondent **Jennifer Yvonne Williams** is charged with violating her probation conditions imposed by the California Supreme Court. The Office of Probation of the State Bar of California (Office of Probation) seeks to revoke respondent’s probation, to impose upon her the entire period of suspension previously stayed, and to involuntarily enroll respondent as an inactive member of the State Bar.

The court finds, by a preponderance of the evidence, that respondent has violated her probation conditions and hereby grants the motion. Therefore, the court orders that respondent be involuntarily enrolled as an inactive member of the State Bar. The court also recommends, among other things, that respondent's probation be revoked, that the previously stayed, three-year suspension be lifted, and that she be actually suspended for three years and must remain suspended until she makes restitution as specified, *post*, and provides proof to the State Bar

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<sup>1</sup> Unless otherwise indicated, all references to rules refer to the State Bar Rules of Professional Conduct. Furthermore, all statutory references are to the Business and Professions Code, unless otherwise indicated.

Court of her 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).)

### **Significant Procedural History**

On May 23, 2012, the Office of Probation filed and properly served a motion to revoke probation (motion) on respondent. The motion was sent by certified mail to respondent's official membership records address. A courtesy copy of the motion was also sent by regular mail to respondent at her official membership records address. Respondent did not file a response within 20 days of the service of the motion.

On June 21, 2012, after the time for respondent to file a response to the State Bar's motion to revoke her probation had expired, the court took this matter under submission.

### **Findings of Fact and Conclusions of Law**

Respondent was admitted to the practice of law in California on May 16, 2006, and has been a member of the State Bar of California at all times since that date.

#### **Facts**

On January 5, 2012, in Supreme Court case No. S197330, the California Supreme Court ordered, among other things, that:

1. Respondent be suspended from the practice of law for three years, that execution of the suspension be stayed, and that she be placed on probation for three years on condition that she be actually suspended from the practice of law for the first 60 days of probation; and
2. Respondent comply with the probation conditions, recommended by the Hearing Department of the State Bar Court in its order approving stipulation filed September 9, 2011 (State Bar Court case Nos. 10-O-04038 (10-O-04352; 10-O-10700), including, but not limited to the following:

- A. Within 30 days from the effective date of discipline (i.e., by March 5, 2012), respondent must contact the Office of Probation and schedule a meeting with her assigned probation deputy to discuss the probation conditions;
- B. Respondent must make restitution to Sheila Strauser (Strauser), Ian Beckford (Beckford), and JaOnna Reynolds (Reynolds) (collectively, the payees) in the amount of \$1,475, \$2,600, and \$3,495, respectively, in \$210 minimum payments due by the 15<sup>th</sup> of the month and submit satisfactory proof of such payments to the State Bar's Office of Probation with each quarterly probation report<sup>2</sup> or as otherwise directed by the Office of Probation. If the Client Security Fund has reimbursed one or more of the payees for all or any portion of the principal amount(s) listed, respondent must also pay restitution to CSF in the amount(s) paid, plus applicable interest and costs.

The Supreme Court order became effective on February 4, 2012, 30 days after it was entered.<sup>3</sup> (Cal. Rules of Court, rule 9.18(a).) It was properly served on respondent.<sup>4</sup>

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<sup>2</sup> Attached as exhibit two to the Office of Probation's motion is a certified copy of Supreme Court order S197330 and the September 9, 2011 Stipulation Re Facts, Conclusions of Law and Disposition and Order Approving (Stipulation), which sets forth respondent's probation conditions. Respondent's quarterly reporting condition requires that during the period of her probation, she must submit a written report on January 10, April 10, July 10 and October 10 of each year, or part thereof, during which the probation is in effect.

<sup>3</sup> As Supreme Court Order S197330 became effective as of February 4, 2012, respondent was required to make her first restitution payment to the payees by February 15, 2012.

<sup>4</sup> Although no proof was offered that the Clerk of the Supreme Court served the Supreme Court's order upon respondent, California Rules of Court, rule 8.532(a) requires clerks of reviewing courts to immediately transmit a copy of all decisions of those courts to the parties upon filing. It is presumed pursuant to Evidence Code section 664 that official duties have been regularly performed. (*In re Linda D.* (1970) 3 Cal.App.3d 567, 571.) Therefore, in the absence of evidence to the contrary, this court finds that the Clerk of the Supreme Court performed his duty and transmitted a copy of the Supreme Court's order to respondent immediately after its filing.

On January 20, 2012, Ivy Cheung (Cheung), the probation deputy who is assigned to respondent's case, wrote a letter to respondent, which was properly sent to her at her official membership records address, reminding her of certain terms and conditions of her suspension and the probation imposed pursuant to the Supreme Court's order. The letter made specific reference to the requirement that respondent contact the probation deputy to schedule a meeting and set forth the deadline by which such contact was required to take place. The letter also included a reminder as to the deadlines relating to respondent's restitution requirement. Enclosed with the letter, among other things, were copies of the Supreme Court's order, the probation conditions portion of the stipulation, and instruction sheets or forms to be used in submitting quarterly reports.

On March 8, 2012, Cheung wrote another letter to respondent, noting, among other things, that respondent had failed to contact the Office of Probation by the March 5, 2012 deadline to schedule the required meeting with her assigned probation deputy. The letter also set forth the terms and conditions relating to respondent's restitution requirement, including that she was required to have made her first restitution payment to each of the payees by February 15, 2012. A copy of the Office of Probation's January 20, 2012, letter and its enclosures were included with the March 8, 2012 letter.

Neither of the probation deputy's letters was returned to the Office of Probation as undeliverable.

On March 19, 2012, respondent belatedly telephoned Cheung to schedule the required meeting. The meeting was set for March 21, 2012 and took place on that date. All conditions and deadlines were reviewed at that meeting.

As set forth, *ante*, respondent was ordered to pay Strauser, Beckford, and Reynolds, a minimum of \$210 each month by the 15<sup>th</sup> of the month, starting in February 2012. She was also

ordered to provide proof of restitution payments with each quarterly report. Thus, respondent was required to provide proof with her April 10, 2012 quarterly report of any restitution payments that she made by February 15 or by March 15, 2012. However, respondent did not make the restitution payments as required. (Motion to Revoke Probation-Declaration of Ivy Cheung, p.11 at ¶h; Exh. 3 to Motion to Revoke Probation, Declaration of Jennifer Y. Williams, p. 00069 at ¶4.)

Thus, as of May 23, 2012, the date on which the motion to revoke probation was filed, respondent had failed to submit proof to the Office of Probation of having made any payments of restitution with regard to any of the payees or in any amount.

### **Conclusions**

Section 6093, subdivision (b), provides that violation of a probation condition constitutes cause for revocation of any probation then pending and may constitute cause for discipline. Section 6093, subdivision (c), provides that the standard of proof is the preponderance of the evidence. Bad faith is not a requirement for a finding of culpability in a probation violation matter. Instead, a general purpose or willingness to commit an act or permit an omission is sufficient. (*In the Matter of Potack* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 525, 536.)

The court finds by a preponderance of the evidence that respondent did not comply with the conditions of probation as set forth above, as ordered by the Supreme Court in S197330: (1) respondent did not timely contact the Office of Probation and schedule a meeting with her assigned probation deputy by March 5, 2012; and (2) respondent did not make the \$210 minimum restitution payments to Strauser, Beckford or Reynolds, which she was required to make by February 15 and March 15, 2012, or submit satisfactory proof of such payments to the Office of Probation with her April 2012 quarterly report.

As a result, the revocation of respondent's probation in California Supreme Court order No. S197330 is warranted.

### **Aggravation<sup>5</sup>**

#### **Prior Record of Discipline (Std. 1.2(b)(i).)**

Respondent has a prior record of discipline. In the underlying matter, respondent stipulated to culpability in three client matters, for failing to perform legal services competently, failing to return unearned fees, sharing legal fees with a person who is not a lawyer, and failing to promptly respond to reasonable status inquiries of a client. She was ordered suspended for three years, stayed, and placed on probation for three years subject to conditions, including, among others, that she be suspended from the practice of law for the first 60 days of probation. (Supreme Court case No. S197330, effective February 4, 2012; State Bar Court case Nos. 10-O-04038 (10-O-04352; 10-O-10700.)

#### **Multiple Acts/Pattern of Misconduct (Std. 1.2(b)(ii).)**

Respondent committed multiple acts of misconduct, including failing to timely schedule a meeting with her assigned probation deputy to discuss the terms and conditions of her probation and failing to pay restitution to three payees as ordered.

#### **Indifference Toward Rectification/Atonement (Std. 1.2(b)(v).)**

An attorney's continued failure to comply with her probation conditions after being notified of that noncompliance is properly considered a substantial aggravating circumstance. It demonstrates indifference toward rectification of or atonement for the consequences of one's misconduct. (*In the Matter of Tiernan* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 523, 530.) Respondent demonstrated indifference toward rectification of or atonement for the consequences

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<sup>5</sup> All references to standards (Std.) are to the Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct.

of her misconduct by not complying despite reminders from the Office of Probation. And, although the motion to revoke her probation was filed in May 2012, which put respondent on notice that her probation status was in jeopardy, respondent still failed to make any restitution payments to the payees.

**Lack of Candor/Cooperation to Victims/State Bar (Std. 1.2(b)(vi).)**

Respondent's failure to participate in this proceeding is also an aggravating factor.

**Mitigation**

Since respondent did not file a response to the probation revocation motion, no evidence in mitigation was presented and none is apparent from the record. (Std. 1.2(e).)

**Discussion**

Section 6093 authorizes the revocation of probation for a violation of a probation condition, and standard 1.7 requires that the court recommend a greater discipline in this matter than that imposed in the underlying disciplinary proceeding, but any actual suspension cannot exceed the period of stayed suspension imposed in the underlying proceeding. (Rules Proc. of State Bar, rule 5.312.) The extent of the discipline to recommend is dependent, in part, on the seriousness of the probation violation and a respondent's recognition of his/her misconduct and his/her efforts to comply with the conditions. (*In the Matter of Potack* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 525, 540.)

The Office of Probation requested that respondent herein be actually suspended for the full amount of stayed suspension. The court agrees.

**Recommendations**

The court recommends that the probation of respondent **Jennifer Yvonne Williams**, member No. 242146, imposed in Supreme Court case matter S197330 (State Bar Court case Nos. 10-O-04038 (10-O-04352; 10-O-10700) be revoked; that the previous stay of execution of the

suspension be lifted; and that respondent be actually suspended from the practice of law for a minimum of three years and will remain suspended until the following requirements are satisfied:

1. She makes restitution to Sheila Strauser in the amount of \$1,475 (or reimburses the Client Security Fund, to the extent of any payment from the fund to Sheila Strauser, in accordance with Business and Professions Code section 6140.5) and furnishes proof thereof to the State Bar's Office of Probation in Los Angeles;
2. She makes restitution to Ian Beckford in the amount of \$2,600 (or reimburses the Client Security Fund, to the extent of any payment from the fund to Ian Beckford, in accordance with Business and Professions Code section 6140.5) and furnishes proof thereof to the State Bar's Office of Probation in Los Angeles;
3. She makes restitution to JaOnna Reynolds in the amount of \$3,495 (or reimburses the Client Security Fund, to the extent of any payment from the fund to JaOnna Reynolds, in accordance with Business and Professions Code section 6140.5) and furnishes proof thereof to the State Bar's Office of Probation in Los Angeles; and
4. She provides proof to the State Bar Court of her rehabilitation, fitness to practice and learning and ability in the general law before her suspension will be terminated. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.4(c)(ii).)

### **Multistate Professional Responsibility Examination**

It is not recommended that respondent be ordered to take and pass the Multistate Professional Responsibility Examination (MPRE) because she was previously ordered to do so in Supreme Court case matter S197330.

### **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.<sup>6</sup>

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<sup>6</sup> Respondent is required to file a rule 9.20(c) affidavit even if she has no clients to notify. (*Powers v. State Bar* (1988) 44 Cal.3d 337, 341.)



## **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**

Section 6007, subdivision (d)(1), provides for an attorney's involuntary inactive enrollment for violating probation if: (A) the attorney is under a suspension order any portion of which has been stayed during a period of probation, (B) the court finds that probation has been violated, and (C) the court recommends that the attorney receive an actual suspension due to the probation violation or other disciplinary matter. The requirements of section 6007, subdivision (d)(1) have been met.

Respondent is ordered to be involuntarily enrolled inactive under section 6007, subdivision (d)(1).<sup>7</sup> This inactive enrollment order will be effective three calendar days after the date upon which this order is served.

Dated: July 11, 2012.

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RICHARD A. PLATEL  
Judge of the State Bar Court

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<sup>7</sup> The court recommends that any period of involuntary inactive enrollment be credited against the period of actual suspension ordered. (Bus. & Prof. Code, § 6007, subd. (d)(3).)