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**THE STATE BAR COURT
HEARING DEPARTMENT - SAN FRANCISCO**

In the Matter of)	Case No. 03-PM-03550-JMR
GREGORY EVAN MANTLE,)	DECISION AND ORDER OF
Member No. 69153,)	INVOLUNTARY INACTIVE
A Member of the State Bar.)	ENROLLMENT

I. INTRODUCTION

Based upon alleged probation violations, the Office of Probation, represented by Jayne Kim, filed a motion pursuant to Business and Professions Code sections 6093(b) and (c)¹ and rules 560-566 of the Rules Procedure of the State Bar² to revoke the probation of Respondent Gregory Evan Mantle imposed by the Supreme Court in its November 4, 2002, order in Supreme Court case no. S109200 (State Bar Court case no. 01-H-03487). Respondent did not participate in this proceeding although he was properly served with the motion by certified mail, return receipt requested, at his State Bar official membership records address (“official address”).³

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¹Unless otherwise indicated, all further references to “section” refer to the Business and Professions Code.

²Unless otherwise indicated, all further references to “rule” refer to the Rules of Procedure of the State Bar.

³On October 20, 2003, Respondent was properly given notice of a status conference to be held on December 1, 2003. He did not participate in the status conference. Moreover, on October 23, 2003, Respondent was properly served with a First Amended Motion to Revoke Probation at his official and an alternate address by certified mail, return receipt requested.

1 For the reasons stated below, this court finds by a preponderance of the evidence that
2 Respondent wilfully failed to comply with the terms of his probation. (Section 6093(c).) As a result,
3 the court grants the motion to revoke Respondent's probation and the request to involuntarily enroll
4 him as an inactive member of the State Bar pursuant to section 6007(d). The court recommends that
5 Respondent's probation be revoked, that the previously-ordered stay be lifted and that he be actually
6 suspended from the practice of law for one year, among other things.

7 **II. FINDINGS OF FACT**

8 **A. Jurisdiction**

9 Respondent was admitted to the practice of law in California on June 24, 1976, was a
10 member at all times pertinent to the allegations herein, and is currently a member of the State Bar
11 of California.

12 **B. Probation Violations**

13 On June 27, 2002, the State Bar Court filed an order approving the stipulation of the parties
14 in State Bar Court case no. 01-H-03487, recommending discipline consisting of one year stayed
15 suspension and one year probation on conditions including an actual suspension of 30 days, among
16 other things. A copy of the stipulation and the State Bar Court's order approving it were properly
17 served upon Respondent on June 27, 2002, at his official address by first-class mail, postage prepaid.

18 On November 4, 2002, the California Supreme Court filed an order in case no. S109200
19 ("Supreme Court order") accepting the State Bar Court's recommendation and ordering Respondent
20 to comply with the conditions of probation recommended.

21 Pursuant to the Supreme Court order, Respondent was ordered to comply with the following
22 terms and conditions of probation, among others:

23 (a) During the period of probation, to submit a written report on January 10, April 10, July
24 10 and October 10 of each year or part thereof during which the probation is in effect to the Office
25 of Probation stating under penalty of perjury that he has complied with all provisions of the State Bar
26 Act and Rules of Professional Conduct during said period;

27 (b) Provide evidence of psychological or psychiatric help or treatment from a duly licensed
28 psychiatrist, psychologist or licensed clinical social worker at least one time per month; and

1 (c) Report to the Office of Probation all changes of information, including current office
2 address and telephone number or other address for State Bar purposes within 10 days of such change.

3 The Supreme Court order became effective on December 4, 2002, thirty days after it was
4 entered. (Cal. Rules of Court, rule 953(a).) It was properly served on Respondent.⁴

5 On November 21, 2002, the Office of Probation wrote a letter to Respondent reminding him
6 of certain terms and conditions of his suspension and probation imposed pursuant to the Supreme
7 Court's order. The letter reminded Respondent of his obligations to file quarterly reports; to report
8 to the Office of Probation all changes of information, including current office address and telephone
9 number or other address for State Bar purposes; and to comply with the psychological treatment
10 condition, among other things. The letter also warned Respondent that failure to comply with the
11 probation conditions could lead to further disciplinary proceedings. Enclosed with the letter were
12 copies of the Supreme Court's order, the probation conditions portion of the stipulation and an
13 instruction sheet and form to use in submitting quarterly reports.

14 The November 21, 2002 letter was mailed on that same date to Respondent's official address
15 via the United States Postal Service with first-class postage prepaid. The letter was not returned as
16 undeliverable.

17 The Office of Probation sent Respondent a second reminder letter on May 29, 2003. It, too,
18 was not returned as undeliverable.

19 Respondent has not submitted quarterly reports due on April 10, July 10 and October 10,
20 2003, or evidence of compliance with the psychological treatment conditions. He also has not
21 provided changes of information regarding his office address and telephone number or other address
22 to be used for State Bar purposes although he was reminded to do so in at least two telephone
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24 ⁴Although no proof was offered that the Clerk of the Supreme Court served the Supreme
25 Court's order upon Respondent, rule 24(a) of the California Rules of Court requires clerks of
26 reviewing courts to immediately transmit a copy of all decisions of those courts to the parties
27 upon filing. Moreover, it is presumed pursuant to Evidence Code section 664 that official duties
28 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 or her duty and transmitted a copy of the Supreme Court's order to Respondent
immediately after its filing.

1 conversations with the Office of Probation in October 2003.

2 As of October 23, 2003, Respondent has not complied with the aforementioned provisions
3 of the Supreme Court's order.

4 **III. CONCLUSIONS OF LAW**

5 Bad faith is not a requirement for a finding of culpability in a probation violation matter,
6 “instead, a ‘general purpose or willingness’ to commit an act or permit an omission is sufficient.
7 (Citations.)” (*In the Matter of Potack* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 525, 536.)

8 Pursuant to section 6093(b) and (c) and rule 561, the court concludes that the Office of
9 Probation has demonstrated by a preponderance of the evidence that Respondent wilfully violated
10 the conditions of probation ordered by the Supreme Court in its November 4, 2002 order by failing
11 to submit to the Office of Probation the quarterly reports, evidence of psychological treatment or
12 change of address for State Bar purposes as set forth above.

13 **IV. AGGRAVATING CIRCUMSTANCES**

14 In aggravation, Respondent has three prior records of discipline. (Rules Proc. of State Bar,
15 tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, standard 1.2(b)(i).⁵) As previously discussed,
16 discipline was imposed in Supreme Court case number S109200 for not complying with conditions
17 attached to a private reproof. He did not timely file four quarterly or mental health reports, final
18 quarterly and mental health reports and proof of passage of the Multistate Professional Responsibility
19 Examination. The existence of two prior instances of discipline, multiple acts of misconduct and
20 indifference toward rectification or atonement were considered as aggravating circumstances.
21 Emotional or physical difficulties and family problems were considered in mitigation. Respondent
22 entered into a stipulation to resolve this matter.

23 Respondent also has two prior private reprovals. In State Bar Court case nos. 99-O-13531
24 and 99-H-10263, effective February 16, 2001, Respondent received a private reproof for violating
25 section 6068(i). In State Bar Court case no. 96-O-01811, effective December 20, 1997, Respondent
26 was found culpable of violating rule 3-110(A) of the Rules of Professional Conduct and section
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28 ⁵Unless otherwise indicated, all further references to “standard” are to this source.

1 6068(i).

2 The court notes the similarity of the misconduct in the prior cases to that in the instant matter.
3 Respondent has not complied with probation or reprobation conditions and failed to cooperate in the
4 disciplinary process.

5 Respondent engaged in multiple acts of misconduct by failing to comply with multiple
6 conditions of probation. (Standard 1.2(b)(ii).)

7 Respondent's failure to comply with the probation conditions after being reminded by the
8 Office of Probation demonstrates indifference toward rectification of or atonement for the
9 consequences of his misconduct. (Standard 1.2(b)(v).)

10 **V. MITIGATING CIRCUMSTANCES**

11 No mitigating evidence was offered on Respondent's behalf or received into evidence and
12 none can be gleaned from the record.

13 **VI. DISCUSSION**

14 Protection of the public and rehabilitation of the attorney are the primary goals of disciplinary
15 probation. (*In the Matter of Howard* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 445, 452; *In*
16 *the Matter of Marsh* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 291, 298.) In determining the
17 level of discipline, the court must consider the "total length of stayed suspension which could be
18 imposed as an actual suspension and the total amount of actual suspension earlier imposed as a
19 condition of the discipline at the time probation was granted." (*In the Matter of Potack, supra*, 1
20 Cal. State Bar Ct. Rptr. at p. 540.)

21 Section 6093 authorizes the revocation of probation for a violation of a probation condition,
22 and standard 1.7 requires that the court recommend a greater discipline in this matter than that
23 imposed in the underlying disciplinary proceeding. However, the period of actual suspension
24 recommended in the instant case cannot exceed the period of stayed suspension imposed in the
25 underlying proceeding. (Rule 562.) The extent of the discipline to recommend is dependent, in part,
26 on the seriousness of the probation violation and Respondent's recognition of his misconduct and
27 his efforts to comply with the conditions. (*In the Matter of Potack, supra*, 1 Cal. State Bar Ct. Rptr.
28 at p. 540.)

1 The Office of Probation requests that Respondent's probation imposed by the Supreme Court
2 in its November 4, 2002, order in Supreme Court case no. S109200 be revoked, that the stay of
3 execution of the suspension previously imposed be lifted, and that Respondent be actually suspended
4 for one year, among other things. The court agrees.

5 In this matter, the court is concerned about Respondent's failure to comply with the above-
6 mentioned conditions of his probation. The court notes that Respondent participated in his prior
7 disciplinary proceeding and entered into a stipulation to resolve it. Respondent was aware of the
8 terms and conditions of his disciplinary probation, yet failed to comply with them.

9 "[A] probation 'reporting requirement permits the State Bar to monitor [an attorney
10 probationer's] compliance with professional standards.'" (*In the Matter of Weiner* (Review Dept.
11 1997) 3 Cal. State Bar Ct. Rptr. 759, 763, citing *Ritter v. State Bar* (1985) 40 Cal.3d 595, 605.) In
12 addition, "an attorney probationer's filing of quarterly probation reports is an important step towards
13 the attorney's rehabilitation." (*In the Matter of Weiner, supra*, 3 Cal. State Bar Ct. Rptr. at p. 763.)
14 Thus, Respondent's failure to file quarterly reports warrants significant discipline. Moreover, he did
15 not comply with the condition that he provide evidence of psychological treatment and of changes
16 in his address for State Bar purposes. There is no indication that Respondent recognized his
17 misconduct or of his efforts to comply with the conditions.

18 In consideration of Respondent's violation of probation conditions, the similarity of this
19 misconduct with prior misconduct and his lack of participation in these proceedings and continuing
20 noncompliance with probation conditions despite the Office of Probation's efforts to secure it, the
21 court does not believe it worthwhile to recommend again placing him on probation subject to
22 conditions.

23 The prior disciplinary order "provided [Respondent] an opportunity to reform his conduct
24 to the ethical strictures of the profession. His culpability in [the matter] presently under
25 consideration sadly indicates either his unwillingness or inability to do so." (*Arden v. State Bar*
26 (1987) 43 Cal.3d 713, 728.)

27 Accordingly, the court finds good cause to GRANT the motion to revoke Respondent's
28 probation and recommends the imposition of substantial discipline in this matter in the absence of

1 evidence supporting an alternative.

2 **VII. DISCIPLINE RECOMMENDATION**

3 The court hereby recommends to the Supreme Court that Respondent's probation in Supreme
4 Court case no. S109200 (State Bar Court case no. 01-H-03487) be revoked, that the previous stay
5 of execution of the suspension be lifted, and that Respondent Gregory Evan Mantle be actually
6 suspended from the practice of law for one year.

7 It is also recommended that Respondent be ordered to comply with the requirements of rule
8 955 of the California Rules of Court within 30 calendar days of the effective date of the Supreme
9 Court order in this matter, and file the affidavit provided for in paragraph (c) within 40 days of the
10 effective date of the order showing his compliance with said order.⁶

11 It is not recommended that Respondent be ordered to successfully complete State Bar Ethics
12 School or to take and pass the Multistate Professional Responsibility Examination as he was ordered
13 to do so in Supreme Court case no. S109200 (State Bar Court case no. 01-H-03487).

14 **VIII. COSTS**

15 The court recommends that costs be awarded to the State Bar pursuant to section 6086.10,
16 and that those costs be payable in accordance with section 6140.7.

17 **IX. ORDER REGARDING INACTIVE ENROLLMENT**

18 Respondent is involuntarily enrolled inactive pursuant to section 6007(d). The requirements
19 of section 6007(d)(1) have been met: Respondent was subject to a stayed suspension, was found to
20 have violated probation conditions, and it has been recommended that Respondent be actually
21 suspended due to said violations.

22 IT IS THEREFORE ORDERED that Respondent Gregory Evan Mantle be involuntarily
23 enrolled as an inactive member of the State Bar of California pursuant to section 6007(d). This
24 enrollment shall be effective three days following the date this order is filed.

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⁶Respondent is required to file an affidavit pursuant to California Rules of Court, rule 955(c), even if he has no clients. (*Bercovich v. State Bar* (1990) 50 Cal.3d 116, 130.)

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IT IS ALSO ORDERED that his inactive enrollment be terminated as provided by section 6007(d)(2).

IT IS RECOMMENDED that Respondent's actual suspension in this matter commence as of the date of his inactive enrollment pursuant to this order. (Section 6007(d)(3).)

Dated: December 26, 2003



JOANN M. REMKE
Judge of the State Bar Court

CERTIFICATE OF SERVICE
[Rule 62(b), Rules Proc.; Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court. 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 26, 2003, I deposited a true copy of the following document(s):

DECISION AND ORDER OF INVOLUNTARY INACTIVE ENROLLMENT

in a sealed envelope for collection and mailing on that date as follows:

- [X] by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

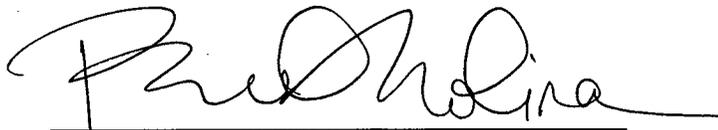
GREGORY EVAN MANTLE
541 SCHOOL RD
MCKINLEYVILLE CA 95521

COURTESY COPY:
GREGORY EVAN MANTLE
541 SCHOOL RD
MCKINLEYVILLE CA 95519

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

JAYNE KIM, Probation, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on **December 26, 2003**.



Bernadette C. O. Molina
Case Administrator
State Bar Court