# PUBLIC MATTER

**STATE BAR COURT OF CALIFORNIA**

**HEARING DEPARTMENT - LOS ANGELES**

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| In the Matter of<br>**ROBERT BRUCE HUTCHINS,**<br>**Member No. 136790,**<br>A Member of the State Bar. | **Case No. 04-O-14644-RAH**<br><br>**DECISION** |

## I. INTRODUCTION

In this original disciplinary proceeding, which proceeded by default, respondent Robert Bruce Hutchins is charged with a total of five counts of misconduct, four of which involve a single client matter and one of which involves respondent's failure to cooperate with the State Bar's disciplinary investigation of that client matter. The Office of the Chief Trial Counsel of the State Bar of California (State Bar) was represented by Deputy Trial Counsel Fumiko D. Kimura. Respondent did not appear in person or by counsel.

The State Bar asserts that the appropriate level of discipline to recommend is three years' stayed suspension and six months' actual suspension continuing until respondent makes restitution of $5,000 in fees that his client paid in advance. Even though it finds that respondent is culpable on four of the five counts of misconduct, the court concludes that the appropriate level of discipline to recommend in this proceeding is two years' stayed suspension and thirty

days' actual suspension continuing[1] until the State Bar Court grants a motion to terminate his actual suspension (Rules Proc. of State Bar, rule 205) and, if respondent remains actually suspended for two or more years, he establishes his rehabilitation, fitness to practice, and learning in the law in accordance with standard 1.4(c)(ii) of the Standards for Attorney Sanctions for Professional Misconduct.[2]

The State Bar's request for a recommendation that respondent be required to make restitution is denied because the State Bar failed to establish the appropriate amount of restitution.[3] Even though it states in its brief on culpability and discipline that respondent "received $5,000.00 in advanced legal fees [for which he did not] perform any services of value for [the client]," the State Bar did not cite to anything in the record to support its later statement that respondent failed to perform and services of value for the client.[4] Moreover, the record clearly establishes the contrary. The record clearly establishes that respondent provided legal services of value and benefit to his client (e.g., at a minimum, respondent drafted and filed a

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[1]As discussed in detail below, because respondent committed the misconduct found in the present proceeding during the same time period in which he committed the misconduct in his prior record of discipline, the court applied the analysis set forth in *In the Matter of Sklar* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 602, 618-619 and concluded that respondent should be suspended for thirty days in addition to the sixty days that he was suspended in his prior record.

[2]The standards are found in title IV of the Rules of Procedure of the State Bar. All further references to standards are to this source.

[3]This denial is without prejudice to State Bar requesting that respondent be required to account for and to make restitution of the unearned portion of $5,000 in fees a client paid in advance as a condition of probation imposed by the State Bar Court as a condition for terminating his actual suspension under rule 205 of the Rules of Procedure of the State Bar.

[4]Of course, if the State Bar's statement had support in the record, the court would have recommended that respondent make restitution in the amount of $5,000. (E.g., *In the Matter of Bailey* (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220, 230; *In the Matter of Harris* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 219, 229, 231.)

compliant for his client in superior court). In sum, the State Bar failed to establish how much of the $5,000 in advanced fees is unearned.

## II. PROCEDURAL HISTORY

On June 16, 2005, in accordance with Business and Professions Code section 6002.1, subdivision (c),[5] the State Bar properly served a copy of the notice of disciplinary charges in this proceeding (hereafter NDC), which was filed in this court on June 20, 2005, on respondent by certified mail, return receipt requested, at his latest address shown on the official membership records of the State Bar (official address). That service was deemed complete when mailed even if respondent did not receive it. (§ 6002.1, subd. (c); *Bowles v. State Bar* (1989) 48 Cal.3d 100, 107-108.)

Thereafter, on June 20, 2005, the State Bar received, from the United States Postal Service, the return receipt for that copy of the NDC. That receipt establishes that the service copy of the NDC was actually delivered to respondent's official address and signed for by "J. Nicholas" as respondent's agent. Respondent's response to the NDC was due no later than July 11, 2005. (Rules Proc. of State Bar, rule 103(a).) Respondent, however, never filed a response. Accordingly, on July 19, 2005, as a courtesy to respondent, DTC Kimura telephoned respondent at the telephone number he maintained on the official membership records of the State Bar. DTC Kimura got respondent's voice mail, which identified the phone number as belonging to "Bob Hutchins," and left a voice message for respondent asking respondent to return his call.

Then, on July 21, 2005, as a further courtesy to respondent, DTC Kimura sent respondent an e-mail regarding the present proceeding. Finally, on the night of Sunday, July 24, 2005, respondent left a voice mail message on DTC Kimura's office phone stating, without explanation, that it was difficult for him to get back to DTC Kimura during the week.

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[5]Unless otherwise noted, all further statutory references are to the Business and Professions Code.

After DTC Kimura listened to respondent's voice mail message on Monday, July 25, 2005, she telephoned respondent again and left a detailed voice mail message for respondent regarding respondent's failure to timely file a response to the NDC and reminding respondent that the initial in-person status conference in this matter was set for July 28, 2005. Respondent, however, still failed to file a response to the NDC. What is more, respondent failed to appear, either in person or by counsel, at the July 28, 2005, status conference. Furthermore, DTC Kimura has not heard from respondent since July 24, 2005.

On August 18, 2005, the State Bar filed and properly served on respondent a motion for entry of default. Respondent failed to file a response to either that motion or the NDC. Accordingly, on September 19, 2005, the court filed an order entering respondent's default and, as mandated in section 6007, subdivision (e)(1), placing him on involuntary inactive enrollment. The Clerk of the State Bar Court properly served a copy of that order on respondent by certified mail, return receipt requested, at his official address. Thereafter, on September 23, 2005, the clerk received, from the Postal Service, the return receipt for that copy of the court's order. That receipt establishes that the service copy of the order was actually delivered to respondent's official address and signed for by "J. Nicholas" as respondent's agent on September 20, 2005.

On October 11, 2005, the State Bar filed a request for waiver of default hearing and brief on culpability and discipline.[6] That same day, the court took the matter under submission for decision without a hearing.

## III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

### A. Jurisdiction

Respondent was admitted to the practice of law in this state on December 7, 1988, and has been a member of the State Bar of California since that time.

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[6]Exhibits 1 through 4 to this pleading are admitted into evidence. (Rules Proc. of State Bar, rule 202(c).)

**B. The Harris Matter & Failure to Cooperate – Counts 1 - 5**

**1. Findings of Fact**

On July 10, 2003, Aviva R. Harris retained respondent to enforce a real estate contract between Harris and Faustina Gomez and paid respondent $5,000 in advanced legal fees. Even though respondent never provided Harris with a written retainer agreement, Harris agreed that respondent's fee would be $225 an hour.

On July 14, 2003, respondent wrote to Gomez informing her that Harris had retained him to enforce the disputed real estate contract. Sometime during that same month, respondent filed, for Harris, a complaint against Gomez in the Kern County Superior Court (hereafter the lawsuit). Not only did respondent fail to serve a copy of the complaint on Gomez, he failed to perform any further services for Harris.

On September 9, 2003, Harris "faxed" respondent a letter in which she asked respondent (1) whether he had served a copy of the complaint on Gomez and (2) for an update on her case. In that same letter, Harris also notified respondent that she had not yet received a bill from his law office. The next day respondent sent Harris an e-mail in which he stated that he would contact her later that afternoon. Respondent, however, failed to contact Harris. Accordingly, the next day, Harris faxed a letter to respondent regarding his failure to contact her as promised and again inquiring as to whether the complaint in the real estate action had been served on Gomez. In that same letter, Harris also asked respondent to contact her on September 11, 2003. Even though respondent received the Harris's September 10, 2003, letter, he failed to timely respond.

In October 2003, respondent told Harris that the complaint had been served on Gomez when respondent should have known that the complaint had not been served on Gomez.[7] On

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[7]Even though the NDC alleges that respondent told Harris that the complaint had been served on Gomez when respondent "knew or should have known that the complaint . . . had not been served . . . ," respondent's default, of course, admits only the lesser of the alternative allegations (i.e., that he should have known that the complaint had not been served). In any

October 13, 2003, Harris sent respondent an e-mail about his failure to communicate with her regarding her case. In that e-mail, Harris also notified respondent that she still had not received a copy of the proof of service in the lawsuit and asked respondent to send her a copy as soon as possible. Harris even "faxed" respondent a copy of her October 13, 2003, e-mail. Moreover, even though respondent received Harris's October 13, 2003, e-mail, he failed to respond to it.

On October 23, 2003, Harris retained attorney David Bilford to take over her case from respondent. On October 27, 2003, Attorney Bilford sent respondent a letter in which he notified respondent that Harris had retained him to take over and handle her case and in which he asked respondent for Harris's file. Even though respondent received Bilford's letter, he did not send Harris's file until November 20,2003.

Between October 2003 and January 6, 2004, Harris telephoned respondent's office on several occasions and left messages inquiring about the status of her case. Respondent, however, failed to respond to Harris's telephone calls. Then, on January 6, 2004, Harris sent respondent a letter by express mail in which she asked respondent to provide her with an accounting of $5,000 in advanced fees and to refund to her the unearned portion. Even though respondent received Harris's letter on January 7, 2004, respondent failed to respond to it. Accordingly, on February 6, 2004, Harris sent respondent another letter by express mail in which she again requested an accounting of the $5,000 in advanced fees and a refund of the unearned portion. Even though respondent received Harris's February 6, 2004, letter, he failed to respond to it.

On October 12, 2004, and again on January 26, 2005, a State Bar investigator sent respondent a letter asking respondent to respond, in writing, to specific allegations in the Harris

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event, the court notes that the NDC does not charge respondent with violating section 6106 (moral turpitude) by making misrepresentations to Harris regarding the status of her case. (See, e.g., *Stevens v. State Bar* (1990) 51 Cal.3d 283, 289 [misleading client about status of case involves moral turpitude].) Furthermore, because this is a default, the court cannot even consider such a violation for purposes of aggravation. (*In the Matter of Hazelkorn* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 602, 606.)

client matter. Even though respondent received both of those letters (Evid. Code, § 641), respondent did not respond to them.

**2. Conclusions of Law**

a. *Count 1 – Failure to perform with competence* – rule 3-110(A), Rules of Professional Conduct.[8] The State Bar alleges that respondent willfully violated rule 3-110(A) by "failing to perform legal services on behalf of Harris after filing the complaint" in July 2003. The court cannot agree. Even though the admitted allegations of the NDC establish that respondent did not perform any services for Harris after July 2003, the record also establishes that Harris terminated respondent's employment in October 2003. Thus, the record establishes only that respondent did not do any work on Harris's case for about three months. There is nothing in the record suggesting, much less establishing, that Harris's case, including serving the complaint on Gomez, was urgent and that respondent knew that it was urgent. Accordingly, standing alone, respondent's failure to perform any work on Harris's case for such a relatively brief period of time as three months does not establish that he "intentionally, recklessly, or repeatedly failed to perform legal services with competence" in willful violation of rule 3-110(A). At best, an attorney's failure to work on a client's matter for three months, without more, might be negligent. However, negligence, "even that amounting to legal malpractice, does not establish a rule 3-110(A) violation." (*In the Matter of Torres* (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138, 149.)

In sum, count 1 is dismissed with prejudice.

b. *Count 2 – Failure to refund unearned fees* – rule 3-700(D)(2). The record clearly establishes that respondent did not earn all of the $5,000 in advanced fees. Even though the record does not establish how much respondent did not earn, it does establish clearly

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[8]Unless otherwise indicated, all further references to rules are to the Rules of Professional Conduct.

that, whatever the amount is, respondent did not refund any portion of it to Harris. In sum, respondent is culpable of willfully violating rule 3-700(D)(2) as charged in count 2 because he failed to refund any portion of the unearned fee to Harris in response to her January and February 2004 requests that he refund the unearned fees.

c. *Count 3 – Failure to properly account for client funds* – rule 4-100(B)(3). Notwithstanding the fact that, in this state, advanced fees are not "client funds" that are required to be deposited into a client trust account, the review department has held that attorneys have a duty to account for them under rule 4-100(B)(3) that is independent and separate from their duty, as a fiduciary, to account for funds advanced to them. (*In the Matter of Fonte* (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752, 758.) Accordingly, this court concludes that respondent is culpable of willfully violating rule 4-100(B)(3) as charged in count 3 because he failed to account to Harris for the $5,000 in advanced fees in response to her January and February 2004 requests for an accounting.

*d. Count 4 – Failure to respond to client inquiries* – section 6068, subdivision (m). The record clearly establishes that respondent is culpable of willfully violating section 6068, subdivision (m) as charged in count 4. First, respondent incorrectly told Harris that the complaint had been served on Gomez when respondent should have known that it had not. Second, respondent failed to respond to the status inquiries Harris made on September 9 and October 23, 2003. Of course respondent had no duty to respond to any of Harris's status inquires after he gave Harris's file to Attorney Bilford in November 20, 2003, as there was no status on which he could report.

*e. Count 5 – Failure to cooperate with State Bar disciplinary investigation* – section 6068, subdivision (i). The record clearly establishes that respondent is capable of willfully violating section 6068, subdivision (i) as charged in count 5 because he failed to cooperate with the State Bar when he did not respond to the State Bar investigator's letters.

## IV. LEVEL OF DISCIPLINE

### A. Factors in Aggravation

The State Bar must prove all aggravating circumstances by clear and convincing evidence. (Std. 1.2(b).)

#### 1. Prior Records of Discipline

Respondent has one prior record of discipline. (Std. 1.2(b)(i).) That prior record, in which respondent also defaulted, is the Supreme Court's April 14, 2005, order in *In re Robert Bruce Hutchins on Discipline*, case number S131117 (State Bar Court case number 03-O-05003-PEM) (*Hutchins* I) in which the court placed respondent on two years' stayed suspension and sixty days' actual suspension continuing until respondent makes restitution of $2,500 in unearned fees with interest and the State Bar Court grants a motion to terminate respondent's actual suspension under rule 205 of the Rules of Procedure of the State Bar.

In *Hutchins* I, respondent was found culpable on five counts of misconduct. The first four counts involved a single client matter. In that matter respondent was found culpable of failing to competently perform legal services (rule 3-110(A)), failure to respond to client inquires (section 6068, subdivision (m)), improper withdraw from representation (rule 3-700(A)(2)), and failure to refund unearned fees of $2,500 (rule 3-700(D)(2)). The fifth count involved respondent's failure to cooperate in a State Bar disciplinary investigation in violation of section 6068, subdivision (i).

#### 2. Multiple Acts of Misconduct

Respondent's misconduct involves five acts of misconduct. (Std. 1.2(b)(ii).)

#### 3. Significant Client Harm

Respondent's misconduct caused significant client harm in that he failed to refund the unearned portion of the $5,000 in advanced fees to Harris. (Std. 1.2(b)(iv).) His failure to refund the unearned portion has wrongfully deprived his clients the use of that sum.

**4. Indifference Towards Rectification**

Respondent's continued failures to account to Harris and to refund the unearned portion of the $5,000 in advanced fees establish respondent's indifference towards rectification and atonement for the consequences of his misconduct. (Std. 1.2(b)(v).)

**5. Failures to File Responses to the NDC**

Respondent's failure to file a response to the NDC, which allowed his default to be entered, is an aggravating circumstance. (*Conroy v. State Bar* (1990) 51 Cal.3d 799, 805.) Respondent's failure to participate in this disciplinary proceeding before the entry of his default is an aggravating circumstance under standard 1.2(b)(vi). (*In the Matter of Bailey* (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220, 223, 225.) However, because the conduct relied on to establish this aggravating circumstance so closely equals the misconduct relied on to find respondent culpable of violating section 6068, subdivision (i) and to enter respondent's default, it warrants little weight. (*Id.* at p. 225.)

**B. Factors in Mitigation**

Because of respondent's failure to participate in this proceeding, there is no evidence of any mitigating circumstances and none is otherwise evident in the record.

**C. Discussion**

The primary purposes of attorney discipline are to protect the public, the courts, and the legal profession; to maintain the highest possible professional standards for attorneys; and to preserve public confidence in the legal profession. (Std. 1.3; *Chadwick v. State Bar* (1989) 49 Cal.3d 103, 111.) In determining the appropriate level of discipline, the court looks first to the standards for guidance. (*Drociak v. State Bar* (1991) 52 Cal.3d 1095, 1090; *In the Matter of Koehler* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 615, 628.) As the review department noted more than 14 years ago in *In the Matter of Bouyer* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 404, 419, even though the standards are not be applied in a talismanic fashion, they are to be followed unless there is a compelling reason that justifies not do so. (Accord, *In re*

*Silverton* (2005) 36 Cal.4th 81, 91; *Aronin v. State Bar* (1990) 52 Cal.3d 276, 291.) Second, the court looks to decisional law for guidance. (*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(a) provides that, when an attorney has one prior record of discipline, the discipline imposed in the current proceeding shall be greater than that imposed in the prior. However, as the State Bar aptly notes in its brief on culpability and discipline, standard 1.7(a) should not be strictly applied in the present proceeding because the misconduct found herein was committed during the same time period as the misconduct found in *Hutchins* I. (*In the Matter of Sklar, supra*, 2 Cal. State Bar Ct. Rptr. at pp. 618-619; *In the Matter of Burckhardt* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 343, 351.) Instead, the correct analysis is to "consider the totality of the findings in the two cases to determine what the discipline would have been had all the charged misconduct . . . been brought as one case." (*In the Matter of Sklar, supra*, 2 Cal. State Bar Ct. Rptr. at p. 619.)

The first step in applying the analysis is to note that, under standard 1.6(a), when two or more acts of misconduct are found in a single disciplinary proceeding and different sanctions are prescribed for those acts, the recommended sanction is to be the most severe of the different sanctions. In the present proceeding, the most severe sanction for respondent 's misconduct is found in standard 2.2(b), which provides that "Culpability of a member of commingling of entrusted funds or property with personal property or the commission of another violation of rule 4-100. . . none of which offenses result in the wilful misappropriation of entrusted funds or property shall result in at least a three month actual suspension from the practice of law, irrespective of mitigating circumstances."

In the present proceeding, there is no compelling reason for the court to depart from the minimum 90-day period of actual suspension provided for in standard 2.2(b). (*In re Silverton, supra*, 36 Cal.4th at p. 91; *Aronin v. State Bar, supra*, 52 Cal.3d at p. 291.) In the Harris matter, respondent failed to account for the $5,000 in advanced fees and to refund the unearned fee.

Similarly, in the client matter in *Hutchins* I, respondent collected $2,500 in advanced fees and failed to refund them even though he did not perform any work for the client and ultimately abandoned the client.[9] Plus, in both client matters, respondent failed to respond to his clients' status inquiries. Finally, in both this proceeding and in *Hutchins* I, respondent failed to cooperate with the State Bar's disciplinary investigations.

What is more, respondent's failures to refund the unearned fees in both this proceeding and *Hutchins* I suggest a continuing disregard for the rights of his former clients. (*Aronin v. State Bar, supra*, 52 Cal.3d at p. 291.) In addition, respondent's wrongful retention of the unearned fees in those matters have been for such extended periods of time that they approach practical appropriations of client property, which is particularly aggravating. (*In the Matter of Nees* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 459, 465.) These facts also counsel against departing from the minimum 90-day actual suspension provided for in standard 2.2(b).

Case law also supports ninety days' actual suspension. For example, *In the Matter of Greenwood* (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 831, the attorney was placed on eighteen months' stayed suspension, two years' probation, and ninety days' actual suspension after being found culpable of abandoning his client in two client matters, of failing to cooperate in two State Bar disciplinary investigations, and of failing to comply with a court order to respond to discovery requests.

In summary, the court concludes that had the present proceeding and *Hutchins* I been brought as one case, the appropriate level of discipline would have been the two years' stayed suspension imposed in *Hutchins* I and ninety days' actual suspension continuing until respondent (1) makes restitution of $2,500 with interest to client in *Hutchins* I, (2) the State Bar Court grants

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[9]"Surely the legal profession is more than a 'mere money-getting trade' [citation]; it at least requires the rendition of services for any payment received. 'Taking money for services not performed or not to be performed is close to the crime of obtaining money by false pretenses. . . .' " (*Hulland v. State Bar* (1972) 8 Cal.3d 440, 449.)

a motion to terminate his actual suspension, and (3) if he remains suspended for two or more years, until he complies with standard 1.4(c)(ii). To effectuate this level of discipline, this court will recommend that, in addition to again placing respondent on two years' stayed suspension, that he be actually suspended for thirty days (ninety days less the sixty days already imposed on respondent in *Hutchins* I)[10] and until he accounts and makes restitution to Harris and, if his actual suspension continues for two or more years, he complies with standard 1.4(c)(ii). Finally, just as the State Bar Court recommended in *Hutchins* I, this court will recommend that respondent again be ordered to comply with California Rules of Court, rule 955 if his actual suspension imposed in this proceeding continues for 90 or more days. If the Supreme Court accepts that recommendation, respondent will, of course, be required to again comply with rule 955 even if he has continually remained on actual suspension under the Supreme Court's order in *Hutchins* I.

This court does not recommend that respondent be ordered to take and pass a professional responsibility examination because he was ordered to do so in *Hutchins* I and has not committed any additional misconduct since that order. (See *Rhodes v. State Bar* (1989) 49 Cal.3d 50, 61; accord *In the Matter of Dahlz* (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269, 286.)

## V. RECOMMENDED DISCIPLINE

The court recommends that respondent Robert Bruce Hutchins be suspended from the practice of law in the State of California for a period of two years, that execution of the two-year suspension be stayed, and that he be actually suspended from the practice of law for thirty days and until:

(1) the State Bar Court grants a motion, under rule 205 of the Rules of Procedure of the State Bar, to terminate his actual suspension; and

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[10]Ordinarily, the court would recommend that this 30-day actual suspension run consecutive to the 60-day actual suspension imposed in *Hutchins* I. However, the court need not and does not do so in the present instance because respondent has already served the 60 days' actual suspension imposed in *Hutchins* I.

(2) if he remains actually suspended for two or more years, he shows proof satisfactory to the State Bar Court of his rehabilitation, present fitness to practice, and present learning and ability in the general law in accordance with standard 1.4(c)(ii) of the Standards for Attorney Sanctions for Professional Misconduct.

Further, in accordance with rule 205 of the Rules of Procedure of the State Bar, the court recommends that Hutchins be ordered to comply with the conditions of probation, if any, hereinafter imposed by the State Bar Court as a condition for terminating his actual suspension.

## VI. RULE 955 & COSTS

The court further recommends that, if the period of his actual suspension in this proceeding extends for 90 or more days, Hutchins be ordered to comply with California Rules of Court, rule 955 and to perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court order in this matter.[11] Finally, the court recommends that the costs incurred by the State Bar in this matter be awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and that such costs be payable in accordance with Business and Professions Code section 6140.7.

Dated: January 9, 2006.

RICHARD A. HONN
Judge of the State Bar Court

[11]Hutchins is required to file a rule 955(c) affidavit even if he has no clients to notify. (*Powers v. State Bar* (1988) 44 Cal.3d 337, 341.) In addition to being punished as a crime or a contempt (Cal. Rules of Court, rule 955(d)), an attorney's failure to comply with rule 955 almost always results in disbarment unless there are *compelling* mitigating circumstances. (See *Bercovich v. State Bar* (1990) 50 Cal.3d 116, 131; *In the Matter of Lynch* (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 287, 296.)

# CERTIFICATE OF SERVICE

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

I am a Case Administrator 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 January 9, 2006, I deposited a true copy of the following document(s):

**DECISION**

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 Los Angeles, California, addressed as follows:

**ROBERT B HUTCHINS**
**ATTORNEY AT LAW**
**501 W GLENOAKS BLVD #34**
**GLENDALE, CA 91202**

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

**Fumiko Kimura, Enforcement, Los Angeles**

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **January 9, 2006.**

**Milagro del R. Salmeron**
Case Administrator
State Bar Court