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**THE STATE BAR COURT  
HEARING DEPARTMENT - LOS ANGELES**

In the Matter of

**TRACY LYNN WILLIAMS,**

**Member No. 161265,**

A Member of the State Bar.

**Case No. 04-PM-13529-JMR**

**DECISION AND ORDER OF  
INVOLUNTARY INACTIVE  
ENROLLMENT**

**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 6093(c)<sup>1</sup> and rules 560 et seq. of the Rules Procedure of the State Bar to revoke the probation of Tracy Lynn Williams imposed by the Supreme Court in its March 6, 2002, order in Supreme Court case no. S103280 (State Bar Court case nos. 99-O-10472; 99-O-10473; 99-O-11195; 99-O-12004; 99-O-12080; 99-O-12541; 00-O-10496 (Cons.)). Respondent did not participate in this proceeding although she was properly served with the motion by certified mail, return receipt requested, at her State Bar membership records address.<sup>2</sup>

For the reasons stated below, this court finds by a preponderance of the evidence that Respondent wilfully failed to comply with the terms of her probation. (Section 6093(c).) As a result, the court grants the motion to revoke Respondent's probation and its request to involuntarily

<sup>1</sup>Unless otherwise indicated, all further references to "section" refer to provisions of the Business and Professions Code.

<sup>2</sup>On August 20, 2004, Respondent was properly served at her membership records address with a notice of assignment. This correspondence was not returned to the State Bar Court as undeliverable.

1 enroll her as an inactive member of the State Bar pursuant to section 6007(d). The court  
2 recommends that Respondent's probation be revoked, that the previously-ordered stay be lifted and  
3 that she be actually suspended from the practice of law for two years and until she complies with  
4 standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.

### 5 FINDINGS OF FACT

#### 6 Jurisdiction

7 Respondent was admitted to the practice of law in the State of California on December 14,  
8 1992, was a member at all times pertinent to the allegations herein, and is currently a member of the  
9 State Bar of California.

#### 10 Probation Violations

11 On October 23, 2001, the State Bar Court filed an order approving the stipulation of the  
12 parties in case nos. 99-O-10472; 99-O-10473; 99-O-11195; 99-O-12004; 99-O-12080; 99-O-12541;  
13 00-O-10496 (Cons.), recommending discipline including stayed suspension two years and until she  
14 complies with standard 1.4(c)(ii) and three years probation on conditions including actual suspension  
15 of one year and until she complied with standard 1.4(c)(ii), among other things. A copy of the  
16 stipulation and the State Bar Court's order approving same were properly served upon Respondent  
17 on October 23, 2001, at her then-State Bar membership records address by first-class mail, postage  
18 prepaid.

19 On March 6, 2002, the California Supreme Court filed an order in case no. S103280  
20 ("Supreme Court order") accepting the State Bar Court's recommendation and ordering Respondent  
21 to comply with the conditions of probation recommended.

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

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

28 (b) With the above-stated quarterly reports, submit evidence of mental health treatment at

1 least once a month;

2 (c) Cooperate fully with the assigned probation monitor; and

3 (d) Promptly and fully respond to inquiries from the Office of Probation relating to  
4 compliance with probation conditions.

5 The Supreme Court order became effective on April 5, 2002, thirty days after it was entered.  
6 (Rule 953(a), Cal. Rules of Court.) It was properly served on Respondent.<sup>3</sup>

7 On March 26 and May 23, 2002, the Office of Probation wrote a letter to Respondent  
8 reminding her of certain terms and conditions of his suspension and probation imposed pursuant to  
9 the Supreme Court's order. The May 23 letter further advised respondent to contact her probation  
10 monitor, Samuel J. Frazier, III.

11 On July 8, 2002, the Office of Probation received a probation monitor quarterly report from  
12 Frazier which stated that respondent had met with him and discussed the terms and conditions of  
13 probation. Frazier thereafter regularly kept the Office of Probation apprized of his contacts with  
14 respondent.

15 On April 17, 2003, the Office of Probation received a quarterly report from respondent but  
16 not a report regarding mental health treatment. A letter was sent to respondent on April 23, 2003,  
17 asking her to submit the medical report forthwith and reminding her that the next reporting date was  
18 on July 10, 2003.

19 On May 3, 2003, the Office of Probation received a probation monitor report from Frazier  
20 indicating that he had not received respondent's April 10, 003, reports.

21 Respondent did not submit any of the reports due on July 10, 2003.

22 On October 10, 2003, the Office of Probation received a probation monitor report from  
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24 <sup>3</sup>Although 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 Frazier stating that respondent had not contacted him during the reporting period.

2 On November 4, 2003, the Office of Probation received a telephone call from respondent  
3 during which she indicated that she would submit all delinquent reports as soon as possible. The  
4 Office of Probation receive the delinquent reports on November 7, 2003.

5 On January 8, 2004, the Office of Probation received a probation monitor report indicating  
6 that respondent was in compliance with her duties toward the probation monitor.

7 On February 17, 2004, the Office of Probation received the reports that were due on January  
8 10, 2004.

9 On March 26, 2004, the Office of Probation received a probation monitor report from Frazier  
10 noting respondent's address and telephone numbers.

11 Respondent has not submitted any reports to the Office of Probation since February 17, 2004,  
12 specifically, those due on April 10 and July 10, 2004.

13 During a conversation between respondent and the Office of Probation on April 27, 2004,  
14 respondent indicated that she would fax the missing April 10, 2004, reports. The reports were never  
15 received.

16 In a June 16, 2004, letter, the Office of Probation asked respondent to submit the April 10  
17 reports forthwith and also reminded her that the next reporting period was July 10, 2004. There was  
18 no response to this letter.

19 On June 30, 2004, Frazier advised the Office of Probation by telephone that he had not  
20 received any reports from respondent for the April 10 reporting period. He also submitted a  
21 probation monitor report to that effect.

22 On June 30, 2004, the Office of Probation sent respondent an email message at an address  
23 provided by Frazier. The message was returned as undeliverable.

24 On July 14, 2004, the Office of Probation called respondent's cellular telephone number and  
25 left a message asking her to contact the Office of Probation regarding delinquent reports. There was  
26 no response to this call.

27 On July 22, 2004, the Office of Probation received an email from Frazier indicating that the  
28 last contact he had had with respondent was on March 25, 2004.

1 As of August 2, 2004, Respondent has not complied with the aforementioned provisions of  
2 the Supreme Court's order.

3 **CONCLUSIONS OF LAW**

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

7 Pursuant to sections 6093(b) and (c) and rule 561 of the Rules of Procedure of the State Bar,  
8 the court concludes that the Office of Probation has demonstrated by a preponderance of the  
9 evidence that Respondent wilfully violated the conditions of probation ordered by the Supreme Court  
10 in its March 6, 2002, order in Supreme Court case number S103280 by failing to submit to the Office  
11 of Probation the April 10 and July 10, 2004, quarterly and mental health treatment reports. She also  
12 failed to cooperate with the probation monitor and to respond to the Office of Probation's inquiries  
13 regarding compliance with probation conditions.

14 **AGGRAVATING CIRCUMSTANCES**

15 In aggravation, Respondent has three prior records of discipline. (Standard 1.2(b)(i).)<sup>4</sup> As  
16 previously discussed, discipline was imposed in Supreme Court order number S103280, discipline  
17 was imposed including stayed suspension of two years and until she complied with standard  
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19 <sup>4</sup>The State Bar has the burden of proving all aggravating circumstances by clear and  
20 convincing evidence. (*Van Sloten v. State Bar* (1989) 48 Cal.3d 921, 932-933; *In the Matter of*  
21 *Cacioppo* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 128, 148.) Rule 216(a) of the Rules of  
22 Procedure provides, in relevant part, that a prior record of discipline consists of an authenticated  
23 copy of all charges, stipulations, findings and decisions reflecting or recommending imposition  
24 of discipline.

25 Rule 216 clearly anticipates that the prosecution will introduce certified copies of  
26 documents reflecting a respondent's prior record of discipline. Such practice makes the prior  
27 record of discipline a part of the official record of the State Bar Court proceeding and enhances  
28 the ability of the Supreme Court to conduct its independent, *de novo* review of the State Bar  
Court's decision and the record supporting that decision.

In this proceeding, the Office of Probation did not attach copies of all documents  
reflecting Respondent's prior disciplinary record. The Court, on its own motion, judicially  
notices Respondent's prior disciplinary record and will consider it in making its decision in this  
proceeding. However, it is the better practice for the Office of Probation to fully comply with its  
evidentiary obligations.

1 1.4(c)(ii) and three years probation with conditions including actual suspension of one year and until  
2 she complied with standard 1.4(c)(ii). The parties stipulated to Respondent's culpability, in seven  
3 client matters, of violating Rules of Professional Conduct 3-110(A) (seven counts), 3-300, 3-510,  
4 3-700(A)(2) and (D)(1) (one count each) and sections 6068(m) (four counts) and 6068(i) (one count).  
5 Aggravating factors were prior records of discipline and harm to clients, the legal profession or the  
6 administration of justice. Mitigating factors were candor and cooperation and suffering from  
7 emotional or physical difficulties.

8 By order filed August 1, 2003, in Supreme Court case number S116086 (State Bar case no.  
9 01-N-03531), discipline was imposed for not complying with the Supreme court's prior disciplinary  
10 order to submit an affidavit pursuant to rule 955(c) of the California Rules of Court. Aggravating  
11 factors were prior records of discipline and harm to the administration of justice. In mitigation, the  
12 parties agreed that Respondent had been candid and cooperative; had acted in good faith; and  
13 suffered from emotional or physical difficulties. Respondent entered into a stipulation to resolve  
14 this matter which resulted in the following discipline: stayed suspension of two years and until she  
15 complied with standard 1.4(c)(ii); two years probation with conditions including three months actual  
16 suspension.

17 By order filed on March 14, 2001, in Supreme Court case number S094228 (State Bar Court  
18 case no. 99-O-03739), discipline was imposed consisting of one year stayed suspension and actual  
19 suspension of 60 days and until she made specified restitution and complied with rule 205 of the  
20 Rules of Procedure of the State Bar. In this default matter, she was found culpable of violating rules  
21 3-100(A) and 3-700(D)(2) of the Rules of Professional Conduct (two counts each); section 6068(m)  
22 (one count); and section 6068(i) (two counts). In aggravation, the Court found multiple acts of  
23 misconduct and indifference toward rectification of her conduct. No mitigating factors were found.

24 The court notes the similarity of the misconduct in the prior cases to that in the instant matter.  
25 In one prior instance of discipline, she did not obey a disciplinary order to comply with rule 955,  
26 California Rules of Court.

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



1 years and until she complies with standard 1.4(c)(ii), among other things. The court agrees.

2 The court is concerned about Respondent's failure to comply with the above-mentioned  
3 conditions of her probation. Respondent participated in the underlying disciplinary proceeding and  
4 entered into a stipulation to resolve it. Respondent was aware of the terms and conditions of her  
5 disciplinary probation, yet failed to comply with them.

6 "[A] probation 'reporting requirement permits the State Bar to monitor [an attorney  
7 probationer's] compliance with professional standards.'" (*In the Matter of Weiner* (Review Dept.  
8 1997) 3 Cal. State Bar Ct. Rptr. 759, 763, citing *Ritter v. State Bar* (1985) 40 Cal.3d 595, 605.) In  
9 addition, "an attorney probationer's filing of quarterly probation reports is an important step towards  
10 the attorney's rehabilitation." (*In the Matter of Weiner, supra*, 3 Cal. State Bar Ct. Rptr. at p. 763.)  
11 Thus, Respondent's failure to file quarterly and mental health treatment reports warrants significant  
12 discipline. Moreover, she did not comply with the conditions that she cooperate with the probation  
13 monitor and that she respond to the Office of Probation's inquiries regarding compliance with  
14 probation conditions. There is no indication that Respondent recognized her misconduct or of her  
15 efforts to comply with the conditions.

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

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

25 Accordingly, the court finds good cause to GRANT the motion to revoke Respondent's  
26 probation and recommends the imposition of substantial discipline in this matter in the absence of  
27 evidence supporting an alternative.

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

Dated: October 12, 2004

  
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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 October 12, 2004, 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:

**TRACY L. WILLIAMS**  
**P O BOX 3032**  
**COSTA MESA CA 92628**

- [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 **October 12, 2004.**

  
**George Hue**  
Case Administrator  
State Bar Court