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THE STATE BAR COURT  
HEARING DEPARTMENT – SAN FRANCISCO

In the Matter of	)	Case No. 05-PM-02933-PEM
<b>CHRISTOPHER C. HOHNS,</b>	)	
<b>Member No. 118886,</b>	)	<b>ORDER GRANTING MOTION TO</b>
<b>A Member of the State Bar.</b>	)	<b>REVOKE PROBATION</b>

**I. INTRODUCTION**

Based upon alleged probation violations, the Office of Probation of the State Bar ("State Bar"), represented by Jayne Kim, Supervising Attorney, 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 Proc. of State Bar ("rule(s)") to revoke the probation of CHRISTOPHER C. HOHNS, imposed by the Supreme Court in its April 8, 2004, order in Supreme Court matter S122093 (State Bar Court case no.99-O-11037). 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 membership records address.

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

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

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**II. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

**Jurisdiction**

Respondent was admitted to the practice of law in California on June 11, 1985, and has since been a member of the State Bar of California.<sup>2</sup>

**Probation Violations**

On November 25, 2003, the State Bar Court filed and properly served on Respondent an order approving the stipulation of the parties in case no. 99-O-11037, recommending discipline consisting of stayed suspension of one year and until restitution, probation of two years with specified conditions, including actual suspension of 90 days and until restitution.

On April 8, 2004, the California Supreme Court filed an order in case no. S122093 (“Supreme Court order”) accepting the State Bar Court’s recommendation and ordering Respondent to comply with the conditions of probation recommended.

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

- (a) During the period of probation, to submit to the Office of Probation 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, stating under penalty of perjury that he has complied with all provisions of the State Bar Act and Rules of Professional Conduct during said period (“quarterly reports”);
- (b) Submit to the Office of Probation, by May 8, 2005, proof of successful completion of ethics school;
- (c) Report to the Membership Records Office and the Office of Probation any change of address and telephone number used for State Bar purposes, within 10 days of such change.

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<sup>2</sup>Effective September 27, 1999, Respondent was suspended from the practice of law for failure to pay annual membership fees, and that suspension remains in effect. (Evid. Code §452.)

1 The Supreme Court order was properly served on Respondent.<sup>3</sup> The order became effective  
2 on May 8, 2004, thirty days after it was entered. (Rule 953(a), California Rules of Court.)

3 On April 23, 2004, a Probation Deputy of the Office of Probation wrote a letter to  
4 Respondent reminding him of the terms and conditions of the probation imposed pursuant to the  
5 Supreme Court's order. (See the declaration of the deputy, which was submitted in support of the  
6 motion to revoke probation.) Enclosed with the letter were copies of the Supreme Court's order, the  
7 probation conditions portion of the stipulation and an instruction sheet and form to use in submitting  
8 quarterly reports. The letter advised Respondent that his first quarterly report was due by July 10,  
9 2004.

10 The April 8, 2004, letter was mailed to Respondent's official State Bar membership records  
11 address via the United States Postal Service with first-class postage prepaid. Neither this nor other  
12 correspondence from the Office of Probation to Respondent was returned as undeliverable.

13 On July 8, 2004, Respondent submitted his first quarterly report to the Office of Probation  
14 as required by the Supreme Court order.

15 On August 10, 2004, the Office of Probation received copies of two money orders, as proof  
16 that Respondent had made the restitution ordered by the Supreme Court.<sup>4</sup> One money order  
17 reflected a payment to the Respondent's client in the amount of \$131.29; the other money order  
18 reflected payment to the Client Security Fund (CSF), in the amount of \$198.00. However, on May  
19 25, 2005, CSF notified a Probation Deputy that CSF had received the payment of \$198.00, but  
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21 <sup>3</sup>Although no proof was offered that the Clerk of the Supreme Court served the Supreme  
22 Court's order upon Respondent, rule 24(a) of the California Rules of Court requires clerks of  
23 reviewing courts to immediately transmit a copy of all decisions of those courts to the parties  
24 upon filing. Moreover, it is presumed pursuant to Evidence Code section 664 that official duties  
25 have been regularly performed. (*In Re Linda D.* (1970) 3 Cal.App.3d 567, 571.) Therefore, in  
26 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.

27 <sup>4</sup>While the declaration of the probation deputy indicates the proof of restitution was  
28 received August 10, 2005, the 2005 is clearly a typographical error, and the court, on its own  
motion, corrects the date.

1 Respondent still owed CSF \$156.00, relating to the restitution ordered.

2 Respondent did not file his second quarterly report, due October 10, 2004. By letter dated  
3 November 4, 2004, the Office of Probation notified Respondent that his second quarterly report had  
4 not been received and that his membership records telephone number was incorrect.

5 Respondent filed his second quarterly, due October 10, 2004, on November 22, 2004, but  
6 he did not change the telephone number listed on his membership record.

7 Respondent did not file his third quarterly report, due January 10, 2005. On February 14,  
8 2005, the Office of Probation wrote to Respondent about his delinquent quarterly report and the  
9 incorrect telephone number listed on membership records. However, Respondent did not respond  
10 to the subject letter, and did not report a change in his telephone number.

11 Respondent did not file his fourth quarterly report, due April 10, 2005.

12 Respondent did not report a change in the telephone number listed of his membership record.

13 Respondent did not submit proof of completion of ethics school, which was due on May 8,  
14 2005.

### 15 **Conclusions of Law**

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

19 Pursuant to Business and Professions Code section 6093(b) and (c) and rule 561, the Court  
20 concludes that the State Bar has demonstrated by a preponderance of the evidence that Respondent  
21 wilfully violated the conditions of probation ordered by the Supreme Court in its April 8, 2004,  
22 order in Supreme Court case number S122093. He has not submitted quarterly reports due on  
23 January 10, 2005 and April 10, 2005; he has not submitted proof of completion of ethics school by  
24 May 8, 2005; and, he has not reported a change in his telephone number to membership records or  
25 the Office of Probation.

### 26 **III. AGGRAVATING CIRCUMSTANCES**

27 In aggravation, Respondent has a prior record of discipline. (Standard 1.2(b)(i).) As  
28 previously discussed, discipline was imposed in Supreme Court case number S122093 (State Bar

1 Court Case No. 99-O-11037). In connection with a single client matter, Respondent was found  
2 culpable of multiple acts of misconduct, specifically, failure to maintain client funds in a trust  
3 account, failure to notify the client of the receipt of settlement funds, failure to notify the client of  
4 a settlement offer, failure to competently perform, and failure to cooperate with the State Bar's  
5 investigation..

6 Respondent significantly harmed the administration of justice as his failure to comply with  
7 the conditions of his probation made it more much difficult for the State Bar to appropriately  
8 monitor him in seeking to insure the protection of the public and the courts. (Standard 1.2(b)(iv).)

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

#### 12 **IV. MITIGATING CIRCUMSTANCES**

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

#### 15 **V. DISCUSSION**

16 Protection of the public and rehabilitation of the attorney are the primary goals of disciplinary  
17 probation. (*In the Matter of Howard* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 445, 452; *In the*  
18 *Matter of Marsh* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 291, 298.)

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

27 The State Bar requests that Respondent's probation imposed by the Supreme Court in its April  
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1 8, 2004, order in Supreme Court matter S122093 be revoked, that the stay of execution of the  
2 suspension previously imposed be lifted, and that Respondent be actually suspended for one year.  
3 The Court agrees that recommending the imposition of the full amount of stayed suspension is  
4 merited.

5 “[A] probation ‘reporting requirement permits the State Bar to monitor [an attorney  
6 probationer’s] compliance with professional standards.’” (*In the Matter of Weiner* (Review Dept.  
7 1997) 3 Cal. State Bar Ct. Rptr. 759, 763, citing *Ritter v. State Bar* (1985) 40 Cal.3d 595, 605.) In  
8 addition, “an attorney probationer’s filing of quarterly probation reports is an important step towards  
9 the attorney’s rehabilitation.” (*In the Matter of Weiner, supra*, 3 Cal. State Bar Ct. Rptr. at p. 763.)  
10 Thus, Respondent’s failure to file quarterly reports warrants significant discipline.

11 Moreover, Respondent was aware of the probation conditions. He participated in his prior  
12 disciplinary proceeding and entered into a stipulation to resolve it. Although he was repeatedly  
13 reminded about the terms and conditions of his disciplinary probation, he failed to comply with them.  
14 He has not participated in these proceedings. There is no indication that Respondent recognizes his  
15 misconduct or will comply with probation conditions. Accordingly, the Court does not believe it  
16 worthwhile to recommend again placing him on probation subject to conditions.

17 The prior disciplinary order “provided [Respondent] an opportunity to reform his conduct to  
18 the ethical strictures of the profession. His culpability in [the matter] presently under consideration  
19 sadly indicates either his unwillingness or inability to do so.” (*Arden v. State Bar* (1987) 43 Cal.3d  
20 713, 728.)

21 Accordingly, the Court finds good cause to GRANT the motion to revoke Respondent’s  
22 probation and to recommend the imposition of substantial discipline in this matter.

23 **DISCIPLINE RECOMMENDATION**

24 The Court hereby recommends to the Supreme Court that Respondent’s probation in Supreme  
25 Court matter S122093 (State Bar Court case no. 99-O-11037) be revoked, that the previous stay of  
26 execution of the suspension be lifted, and that Respondent CHRISTOPHER C. HOHNS, be actually  
27 suspended from the practice of law for one year and until he demonstrates that all restitution ordered  
28 in the underlying matter has been paid, including any amount owed to the Client Security Fund.

1 It is not recommended that Respondent be ordered to take and pass the Multistate Professional  
2 Responsibility Examination since he was ordered to do so in connection with the underlying  
3 disciplinary case.

4 **COSTS**

5 The Court recommends that costs be awarded to the State Bar pursuant to Business and  
6 Professions Code section 6086.10, and that those costs be payable in accordance with section 6140.7.

7 **ORDER REGARDING INACTIVE ENROLLMENT**

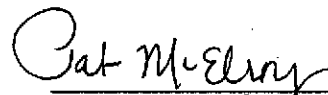
8 Respondent is involuntarily enrolled inactive pursuant to Business and Professions Code  
9 section 6007(d). The requirements of section 6007(d)(1) have been met: Respondent was subject to  
10 a stayed suspension, was found to have violated probation conditions, and it has been recommended  
11 that Respondent be actually suspended due to said violations.

12 **IT IS THEREFORE ORDERED** that Respondent, CHRISTOPHER C. HOHNS, be  
13 involuntarily enrolled as an inactive member of the State Bar of California pursuant to Business and  
14 Professions Code section 6007(d). This enrollment shall be effective three days following service of  
15 this order.

16 **IT IS ALSO ORDERED** that his inactive enrollment be terminated as provided by Business  
17 and Professions Code section 6007(d)(2).

18 **IT IS RECOMMENDED** that Respondent's actual suspension in this matter commence as  
19 of the date of his inactive enrollment pursuant to this order. (Business and Professions Code section  
20 6007(d)(3).)

21  
22 Dated: August 8, 2005



23 **PAT McELROY**  
24 Judge of the State Bar Court  
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**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 August 9, 2005, I deposited a true copy of the following document(s):

**ORDER GRANTING MOTION TO REVOKE PROBATION, filed August 9, 2005**

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:

**CHRISTOPHER C. HOHNS  
310 HENDERSON ST  
GRASS VALLEY CA 95945**

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

**JAYNE KIM, Office of Probation , Los Angeles**

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on August 9, 2005.

  
George Hae  
Case Administrator  
State Bar Court