FILED MARCH 23, 2006

STATE BAR COURT OF CALIFORNIA

HEARING DEPARTMENT - LOS ANGELES

In the Matter of **JOHN GILLESPIE HARTNETT**, **Member No. 49505**, A Member of the State Bar.	)))))))	**Case No. 06-PM-10315-RAP** **ORDER STRIKING LATE FILED PLEADINGS; ORDER GRANTING MOTION TO REVOKE PROBATION & ORDER OF INACTIVE ENROLLMENT**

I. Introduction

This matter is before the court on the motion to revoke probation that the State Bar's Office of Probation (hereafter the State Bar) filed on January 17, 2006. In its motion, the State Bar charges that respondent John Gillespie Hartnett violated the disciplinary probation that the Supreme Court imposed on him in its August 26, 2004, order in *In re John Gillespie Hartnett on Discipline*, case number S125294 (State Bar Court case number 03-O-1347, 03-O-2284, 03-O-4844 (cons.)) (hereafter the Supreme Court's August 2004 order). More specifically, the State Bar alleges that respondent violated his probation (1) by submitting his first three probation reports late, (2) by failing to submit his fourth probation report, and (3) by failing to provide proof that he attended and successfully completed the State Bar's Ethics School.

Supervising Attorney Terrie Goldade represented the State Bar. As discussed *post*, respondent did not timely file a response to the State Bar's motion.

The State Bar contends that respondent's probation should be revoked and that he should be actually suspended from the practice of law for two years and until 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;[1] that he be ordered to comply with California Rules of Court, rule 955; and that this court involuntarily enroll him as an inactive member of the State Bar under Business and Professions Code section 6007, subdivision (d)(1).[2] As discussed *post*, the court finds, by a preponderance of the evidence (§ 6093, subd. (c); Rules Proc. of State Bar, rule 561), that respondent violated his probation as charged and, therefore, grants the State Bar's motion to revoke his probation. The court agrees that respondent should be ordered to comply with rule 955 again and that he should be involuntarily enrolled inactive. However, the court concludes that the appropriate level of discipline includes only one year's actual suspension (and until restitution). Moreover, the court independently concludes that respondent should again be placed on two years' probation on the same conditions that were imposed on him under the Supreme Court's August 2004 order.

II. Procedural History

On January 17, 2006, the State Bar properly served a copy of its motion to revoke probation on respondent by certified mail, return receipt requested, at his latest address shown on the official membership records (hereafter official address) of the State Bar in accordance with section 6002.1, subdivision (c). (See also Rule Proc. of State Bar, rules 60(a), 563(a); *Bowles v. State Bar* (1989) 48 Cal.3d 100, 107-108 [service in State Bar Court proceedings is deemed complete when mailed even if the attorney does not receive it].)

Respondent's response to the motion was due no later than February 13, 2006. (Rules Proc. of State Bar, rule 563(b)(1); see also Rules Proc. of State Bar, rules 63 [computation of time].) Respondent, however, failed to timely file a response. Accordingly, on February 21, 2006, the court filed an order taking the State Bar's motion under submission for ruling without a hearing. Copies of that order were properly served on respondent at his official address.

On February 27, 2006, respondent filed a pleading titled "Reply Brief Opposing Continued Suspension of State Bar License to Practice Law." Then, on March 1, 2006, respondent filed a

---

[1]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.

[2]Unless otherwise noted, all further statutory references are to this code.

pleading titled "Opposition to Motion of State Bar to Extend Respondent's Suspension Until 2008." And, on March 17, 2006, respondent filed a pleading titled "Demand for Oral Argument." Respondent did not seek leave of court to file any of these three pleadings late as required by Rules of Procedure of the State Bar, rule 64(b). Notwithstanding the State Bar's failure to raise the lack of timeliness of these pleadings, the court will sua sponte strike them as untimely *post*. (State Bar Ct. Rules of Prac., rule 1112(b).)

III. Findings of Fact

Respondent's failure to timely file a response to the State Bar's motion constitutes both a waiver of his right to request a hearing on the motion and an admission of the factual allegations contained in the motion and its supporting documents. (Rules Proc. of State Bar, rule 563(b)(3).)

Under the Supreme Court's August 2004 order, which became effective September 25, 2004 (Cal. Rules of Court, rule 953(a)), respondent was placed on two year's stayed suspension, two years' probation, and six months' actual suspension continuing until he made restitution to former client Tony Smith in the sum of $508.34 plus interest. Notably, the Supreme Court imposed this discipline on respondent in accordance with a stipulation as to facts, conclusions of law, and disposition that respondent and the State Bar entered into and that the State Bar Court approved in an order filed on May 3, 2004, in case number 03-O-1347 (03-O-2284 and 03-O-4844) (hereafter the parties' May 2004 stipulation).

The admitted factual allegations in the State Bar's motion to revoke probation establish that the Clerk of the Supreme Court promptly mailed a copy of the Supreme Court's August 2004 order to respondent after it was filed. (Accord, Cal. Rules of Court, rule 29.4(a);[3] Evid. Code, § 644.) Even though there is no allegation or direct evidence establishing that respondent actually received that copy of the Supreme Court's August 2004 order, the court finds that respondent actually received it. (Evid. Code, § 641.)

---

[3]The State Bar erroneously cites to former California Rules of Court, rule 24(a), which was repealed in 2003.

Moreover, on September 23, 2004, the State Bar mailed to respondent at his official address a letter confirming each of the probation conditions imposed on respondent under the Supreme Court's August 2004 order. Moreover still, the State Bar enclosed, in that letter, a copy of the Supreme Court's order. That letter was not returned undelivered to the State Bar by the Postal Service, and the court finds that respondent actually received it and its enclosure (Evid. Code, § 641).

The probation conditions imposed on respondent under the Supreme Court's August 2004 order require, inter alia, that respondent (1) submit, on every January 10, April 10, July 10, and October 10, a written probation report to the State Bar stating, under penalty of perjury, whether he has complied with the Rules of Professional Conduct, the State Bar Act, and all the conditions of his probation during the preceding calender quarter; (2) submit, no later than September 25, 2005, proof to the State Bar that he attended and successfully completed its ethics school. The court finds that, as charged, respondent failed to comply with these two probation conditions. More specifically, the court finds (1) that respondent did not submit his first probation report, which was due January 10, 2005, until February 1, 2005; (2) that respondent did not submit his second and third probation reports, which were due April 10, 2005, and July 10, 2005, respectively, until August 24, 2005; (3) that respondent never submitted his fourth probation report, which was due October 10, 2005; and (4) that respondent never provided proof that he attended and successfully completed ethics school. Respondent failed to comply with these conditions despite multiple oral and written reminders from both the State Bar and his assigned probation monitor Attorney Paul D. Powers.

IV. Conclusions of Law

To establish culpability for a probation violation charged in a probation revocation proceeding, the State Bar must prove, by a preponderance of the evidence (§ 6093, subd. (c); Rules Proc. of State Bar, rule 561), the text of the probation condition that the attorney is charged with violating, that the attorney had notice of that probation condition, and that the attorney willfully failed to comply with it. (*In the Matter of Carr* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 244, 251-252.) Willfulness in this context does not require bad faith; rather it requires only a " 'general purpose or willingness' to commit an act or permit an omission." (*In the Matter of Potack* (Review

Dept. 1991)1 Cal. State Bar Ct. Rptr 525, 536.)

The court finds that the State Bar proved, by a preponderance of the evidence, (1) the text of the two probation conditions that respondent is charged with violating, (2) that respondent had notice of the probation conditions, and (3) that respondent willfully failed to comply with the conditions when he submitted his first three probation reports late, failed to submit his fourth probation report, and failed to provide proof that he attended and successfully completed ethics school. Without question, respondent's willful probation violations warrant the revocation of his probation. (§ 6093, subd. (b).)

V. Aggravating Circumstances

The State Bar has the burden of proving all aggravating circumstances, including prior records of discipline, by clear and convincing evidence. (Std. 1.2(b); *Van Sloten v. State Bar* (1989) 48 Cal.3d 921, 932-933.)

A. Prior Records of Discipline

Respondent has two prior records of discipline, which are aggravating circumstances. (Std. 1.2(b)(i).)

1. Respondent's First Prior Record of Discipline

The parties' May 2004 stipulation, a copy of which is included in exhibit 2 to the State Bar's motion to revoke probation, establishes without elaboration that, effective January 19, 2001, respondent was placed on one year's stayed suspension, two years' probation, and sixty days' actual suspension for his convictions of two counts of violating Penal Code section 273.6, subdivision (a) (violation of court protective orders), one count of violating Penal Code section 240 (assault), and one count of violating Penal Code section 242 (battery). This is the only evidence before the court concerning respondent's first prior record of discipline.[4]

---

[4]Unfortunately, the State Bar failed to proffer into evidence, copies of the relevant pleadings, State Bar Court decision, and Supreme Court order from respondent's first prior record of discipline. The State Bar's failure to proffer these relevant documents has deprived this court and the Supreme Court of evidence relevant to the issue of discipline in this proceeding.

2. Respondent's Second Prior Record of Discipline

Respondent's second prior record of discipline is the two years' stayed suspension, two years' probation, and six months' actual suspension (and until restitution) imposed on respondent in the Supreme Court's August 2004 order. As noted *ante*, the Supreme Court imposed that discipline, including the probation conditions, on respondent in accordance with the parties' May 2004 stipulation. In that stipulation, respondent stipulated to five disciplinary violations. First, respondent stipulated to violating Code of Civil Procedure section 128.7, subdivision (b)[5] by signing and submitting to the Ventura Superior Court a mandatory settlement conference statement that contained a false factual contention. (Respondent did not read the statement before he signed and submitted it.) Second, respondent stipulated to violating section 6068, subdivision (i) by repeatedly failing to cooperate with the State Bar's investigation regarding the settlement conference statement that contained a false factual assertion. Third, he stipulated to violating rule 4-200(A) of the Rules of Professional Conduct of the State Bar by collecting an illegal fee of $708.34 from Tony Smith in a workers' compensation case. The $708.34 fee was an illegal fee because respondent collected it without approval of the Workers' Compensation Appeals Board. Fourth, respondent stipulated to violating rule 3-700(D)(2) of the Rules of Professional Conduct by failing to refund the full $708.34 illegal fee to Smith; respondent refunded only $200. Finally, respondent stipulated to violating section 6104 by making two court appearances on behalf of a corporation without authority.

In the parties' May 2004 stipulation, respondent stipulated that his misconduct was aggravated by his prior record of discipline (std. 1.2(b)(i)), client harm (std. 1.2(b)(iv)), and lack of cooperation (std. 1.2(b)(vi)). Moreover, he stipulated that there was no mitigating circumstances surrounding his misconduct.

---

[5]Section 128.7, subdivision (b) provides, inter alia, that, by presenting a pleading to a court, an attorney is certifying that all allegations and factual contentions have evidentiary support to the best of the attorney's knowledge, information, and belief formed *after* a reasonable inquiry.

B. Multiple Acts of Misconduct

The fact that respondent has been found culpable of five separate probation violations in this proceeding is an aggravating circumstance. (Std. 1.2(b)(ii).)

C. Indifference Towards Rectification of Misconduct

Respondent's failures to promptly file his fourth probation report and to promptly provide proof of his attendance and completion of ethics school in response to the State Bar's motion to revoke probation not only defy understanding, but also clearly establish his indifference towards rectification, which is a very serious aggravating circumstance. (Std. 1.2(b)(v); *In the Matter of Meyer* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 697, 702.)

VI. Mitigating Circumstances

There is no evidence of any mitigating circumstances.

VII. Discipline Discussion

Protection of the public and rehabilitation of the attorney are the primary goals of disciplinary probation. (*In the Matter of Howard* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 445, 452; *In the Matter of Marsh* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 291, 298.) What is more, "once probation is imposed, an attorney has an independent professional duty to comply with the conditions of disciplinary probation. [Citations.]" (*In the Matter of Weiner* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 759, 762.) Therefore, unlike criminal defendants who have a clear right to refuse criminal probation, which is a privilege and an act of grace or clemency, and receive a sentence of imprisonment (*In re Osslo* (1958) 51 Cal.2d 371, 377, 381), respondent attorneys in disciplinary proceedings do not have a right to refuse disciplinary probation and receive discipline of only actual suspension. In fact, an attorney's violation of a disciplinary probation condition is grounds for both (1) revoking the attorney's probation and (2) imposing additional discipline on the attorney. (§ 6093, subd. (b); Rules Prof. Conduct of State Bar, rule 1-110; see also Rules Proc. of State Bar, rule 562.)

"The violation of a probation condition significantly related to the attorney's prior misconduct merits the greatest discipline, especially if the violation raises a serious concern about the need to protect the public or shows the attorney's failure to undertake steps toward rehabilitation.

[Citations.] By contrast, the least discipline is appropriate for the violation of a less important probation condition, particularly if the violation does not call into question the need for public protection or the attorney's progress toward rehabilitation. [Citation.]" (*In the Matter of Broderick* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 138, 151.) "Also to be considered are the total length of stayed suspension which could be imposed as an actual suspension and the total amount of actual suspension earlier imposed as a condition of the discipline at the time probation was granted." (*In the Matter of Potack, supra*, 1 Cal. State Bar Ct. Rptr. at p. 540.) Of course, the period of actual suspension recommended in a probation revocation proceeding cannot exceed the entire period of the previously imposed stayed suspension. (Rules Proc. of State Bar, rule 562.)

Even though the probation reporting condition is not directly related to respondent's prior misconduct, respondent's repeated violations of the condition are cause for substantial concern and discipline. First, filing quarterly reports is an important step towards an attorney's rehabilitation. (*In the Matter of Broderick, supra*, 3 Cal. State Bar Ct. Rptr. at p. 151.) Second, "When an attorney commits multiple violations of the same probation condition, the gravity of each successive violation increases." (*In the Matter of Tiernan* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 523, 531.)

Moreover, standard 1.7(a) supports the imposition of substantial discipline. Standard 1.7(a) provides that, when an attorney has a prior record of discipline, "the degree of discipline imposed in the current proceeding shall be greater than that imposed in the prior proceeding unless the prior discipline imposed was so remote in time to the current proceeding and the offense for which it was imposed was so minimal in severity that imposing greater discipline in the current proceeding would be manifestly unjust."[6]

---

[6]Even though respondent has two prior records of discipline and even though standard 1.7(b) provides for disbarment when an attorney has two or more prior records of discipline, standard 1.7(b) is not applicable in probation revocation proceedings under section 6093. (*In the Matter of Carr, supra*, 2 Cal. State Bar Ct. Rptr. at p. 257, fn. 13.) Of course, standard 1.7(b) is applicable to probation violations that the State Bar charges in original disciplinary proceedings under section 6068, subdivision (k) because there is no limitation on the level of discipline available for probation violations in original disciplinary proceedings. Thus, respondent is advised that, if he violates his probation again and the State Bar charges the violation in an

Respondent's continued unwillingness or inability to comply with the conditions of probation imposed on him by the Supreme Court's August 2004 order " 'demonstrates a lapse of character and a disrespect for the legal system that directly relate to an attorney's fitness to practice law and serve as an officer of the court. [Citation.]' [Citation.]" (*In the Matter of Tiernan, supra*, 3 Cal. State Bar Ct. Rptr. at p. 530.) Respondent's failures to properly submit his probation reports and to provide proof of his attendance and completion of Ethics School establish that, for whatever reason, respondent is not engaged in the rehabilitative process. Accordingly, the court concludes that respondent's probation should be revoked and that a one-year period of actual suspension (and until restitution) should be imposed.

The court's conclusion that one year's actual suspension is appropriate is supported by the fact that, on January 13, 2006, the review department filed an order placing respondent on actual suspension because he failed to take and pass the MPRE in accordance with the Supreme Court's August 2004 order.[7] Of course, respondent's actual suspension for not passing the MPRE is not a prior record of discipline under standard 1.2(b)(i). (*In the Matter of Babero* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 322, 331; *In the Matter of Farrell* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 490, 531-532.) But is clearly relevant to the court's determination of the appropriate level of discipline in the present proceeding. (*Ibid.*; cf. std. 1.2(b)(iii).) Respondent's suspension for failing to take and pass the MPRE is yet another indication that, for whatever reason, he is either unwilling or unable to comply with court orders regarding his professional conduct.

Furthermore, the court concludes that just placing respondent on actual suspension for one year is inadequate to protect the public and to effectuate respondent's rehabilitation. Without question, implicit in the Supreme Court's August 2004 order, in which it placed respondent on two years' probation, is the holding that a two-year probationary term, during which respondent will be under the watchful eye of the State Bar and his assigned probation monitor, is required to effectuate

---

original disciplinary proceeding, the violation may result in his disbarment under standard 1.7(b).

[7]This court sua sponte takes judicial notice of the review department's January 13, 2006, suspension order.

respondent's professional rehabilitation and to adequately protect the public. (Cf. *In the Matter of Murphy* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 571, 578 [an attorney's compliance with imposed disciplinary suspension and probation conditions will presumptively rehabilitate the attorney and permit him or her to become a productive attorney again]; see also *Rodgers v. State Bar* (1989) 48 Cal.3d 300, 319 ["The probationary term will enable the State Bar to carefully monitor Rodgers and ensure that his rehabilitation is well established."]; *In re Nadrich* (1988) 44 Cal.3d 271, 279 [disbarment was not necessary because the one year's actual suspension and four years' probation were "sufficient to insure that petitioner's complete rehabilitation is very well established before he escapes the properly watchful eye of the State Bar"].)

As the review department aptly explained eight years ago, attorney disciplinary probation is ordinarily effective "only when the attorneys placed on probation are effectively monitored to ensure (1) that they do not again engage in misconduct and (2) that they are undertaking to conform their conduct to the ethical strictures of the profession. [Citations.] [¶] The effective use of probation in attorney disciplinary proceedings begins with ordering the attorney placed on probation to comply with the State Bar Act, the Rules of Professional Conduct, and other ordered conditions that are individualized to address the specific misconduct found or some underlying and contributing cause of the found misconduct. [A]ttorney probationers [are then] monitored to ensure their compliance with these requirements through appointed voluntary probation monitors or through court-ordered self-reporting by the attorneys or both." (*In the Matter of Weiner, supra*, 3 Cal. State Bar Ct. Rptr. at p. 763.) And, it is in this context that the review department has repeatedly held, "an attorney probationer's filing of quarterly probation reports is an important step towards the attorney's rehabilitation." (*Ibid.,* and cases there cited.)

"At a minimum, quarterly probation reporting is an important step towards an attorney probationer's rehabilitation because it requires the attorney, four times a year, to review and reflect upon his professional conduct in light of the minimum professional standards that are set forth in the State Bar Act and the Rules of Professional Conduct of the State Bar. In addition, it requires the attorney to review his conduct to ensure that he complies with all of the conditions of his disciplinary

probation."[8] (*In the Matter of Weiner, supra*, 3 Cal. State Bar Ct. Rptr. at p. 763.)

In light of the foregoing authorities, the court independently concludes that another two-year period of probation under the watchful eye of the State Bar and his assigned probation monitor is necessary to effectuate respondent's rehabilitation and to adequately protect the public. To conclude otherwise would be inconsistent with discipline imposed on respondent in the Supreme Court's August 2004 order. In addition, the court independently concludes that it is necessary to require respondent to demonstrate that he is *now* willing and capable of engaging in the rehabilitative process by complying with the probation conditions that were originally imposed on him in the Supreme Court's August 2004 order (and to which he stipulated) by imposing those same conditions on him prospectively. (*In the Matter of Meyer, supra*, 3 Cal. State Bar Ct. Rptr. at p. 705.) To conclude otherwise would, in effect, reward respondent for his noncompliance.

The State Bar has not addressed the issue of whether respondent should be ordered to take and pass the MPRE in the present proceeding. However, as noted above, respondent is currently on actual suspension because he failed to take and pass the MPRE in accordance with the Supreme Court's August 2004 order. Furthermore, even if the Supreme Court adopts this court's recommendation and revokes his probation, respondent will remain on actual suspension until he takes and passes the MPRE as previously ordered. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891 fn. 8.) Accordingly, the court will not recommend that respondent be ordered to take and pass the MPRE again.

VIII. Order Striking Late Filed Pleadings

The reply brief filed by respondent on February 27, 2006; the opposition filed by respondent on March 1, 2006; and the demand filed by respondent on March 17, 2006, are STRICKEN from the

---

[8]Of course, a quarterly reporting condition of probation is not mandated in all cases in which probation is recommended. (*In the Matter of Weiner, supra*, 3 Cal. State Bar Ct. Rptr. at p. 763.) However, as the review department instructed eight years ago, "If the circumstances in a particular case establish that probation reports are unnecessary to effectively further the goals of attorney discipline, *those circumstances should be set forth in the hearing judge's decision*." (*Id.* at pp. 763-764, italics added.)

record for lack of timeliness.

IX. Order Granting Motion and Discipline Recommendation

The court RECOMMENDS that the probation imposed on respondent John Gillespie Hartnett by the Supreme Court in its August 26, 2004, order in *In re John Gillespie Hartnett on Discipline*, case number S125294 (State Bar Court case number 03-O-1347, 03-O-2284, 03-O-4844 (cons.)) be revoked; that the stay of execution of the two-year suspension previously imposed on Hartnett in that case be lifted; that Hartnett again be suspended from the practice of law in the State of California for two years, that this two-year suspension be stayed; that Hartnett again be placed on probation for two years on the same probation conditions that were originally imposed on him in the Supreme Court's August 26, 2004, order except that he be actually suspended from the practice of law during the first year of this new two-year probation and, if he has not yet done so, until he makes restitution to Toni Smith in the amount of $508.34 plus 10% interest per annum from February 6, 2003 (or to the Client Security Fund to the extent of any payment from the fund to Toni Smith, plus interest and costs, in accordance with Business and Professions Code section 6140.5) and furnishes satisfactory proof thereof to the State Bar's Office of Probation. Any restitution to the Client Security Fund is enforceable as provided in Business and Professions Code section 6140.5, subdivisions (c) and (d). Moreover, if Hartnett attended and completed ethics school within the time prescribed under the Supreme Court's August 24, 2004, order and only failed to timely provide proof of his attendance and completion, the court recommends that he not be required to attend and complete the school again.[9] Furthermore, the court recommends that credit towards the period of actual suspension be given for the period of time Hartnett is involuntarily enrolled as an inactive member of the State Bar under the order of inactive enrollment *post.* (Bus. & Prof. Code, § 6007, subd. (3).) If Hartnett's actual suspension continues for two or more years, the court recommends that he remain on actual suspension until he shows proof satisfactory to the State Bar Court of his rehabilitation, present

---

[9]Of course, if Hartnett did not attend and complete ethics school within the time prescribed under the Supreme Court's August 2004 order, he is required to attend and complete it and is ordered not to claim any MCLE credit for attending and completing it (see Rules Proc. of State Bar, rule 3201).

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.

X. Rule 955 & Costs

The court further recommends that Hartnett 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 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's order in this matter.[10]

Further, the court recommends that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and be enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

XI. Order of Inactive Enrollment

The requirements for inactive enrollment under Business and Professions Code section 6007, subdivision (d)(1) have been met -- Hartnett is subject to a stayed suspension, and this court has found that he violated the conditions of his probation and is recommending that he be actually suspended from the practice of law because of those violations. Therefore, it is ordered that John Gillespie Hartnett be involuntarily enrolled as an inactive member of the State Bar of California under section 6007, subdivision (d)(1), effective immediately upon the service of this order on the parties by the State Bar Court Clerk (Rules Proc. of State Bar, rule 564). Unless otherwise ordered by the State Bar Court or the Supreme Court, Hartnett's involuntary inactive enrollment under this

---

[10]When an attorney has been ordered to comply with rule 955, the attorney must file a rule 955(c) affidavit even if he or she has no clients to notify. (*Powers v. State Bar* (1988) 44 Cal.3d 337, 341). Furthermore, an attorney's failure to fully and timely comply with rule 955 is extremely serious misconduct for which disbarment is ordinarily the sanction ordered. (*Bercovich v. State Bar* (1990) 50 Cal.3d 116, 131.)

order will terminate, without further court order, on the earliest of the effective date of the Supreme Court's order in this matter or one year after the service of this order. (See Bus. & Prof. Code, § 6007, subd. (d)(2); Rules Proc. of State Bar, rule 564.)

Dated: March 22, 2006.

RICHARD A. PLATEL
Judge of the State Bar Court