

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – LOS ANGELES

In the Matter of)	Case No.: 12-PM-12254-DFM (S193233)
)	
KIMBERLY ALLYSON HANSEN)	ORDER GRANTING MOTION TO
)	REVOKE PROBATION; DISCIPLINE
Member No. 167597)	RECOMMENDATION; INVOLUNTARY
)	INACTIVE ENROLLMENT ORDER.
<u>A Member of the State Bar.</u>)	

INTRODUCTION

On March 26, 2012, the Office of Probation filed a motion to revoke the probation of respondent Kimberly Allyson Hansen (Respondent). Although she was properly served with the motion to revoke probation by certified mail, return receipt requested, and by regular mail at her State Bar membership records address, Respondent did not participate in this proceeding. On April 25, 2012, this court issued an order submitting the motion for decision, serving Respondent with a copy of that order.

Good cause having been shown, the motion to revoke is granted and discipline is recommended as set forth below.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Violation of Conditions of Probation

On July 27, 2011, the California Supreme Court filed an order, S193233, accepting the State Bar Court’s discipline recommendation in case no. 07-O-12444, in which Respondent

stipulated to one count of violating section 6106 (moral turpitude).¹ There were no aggravating factors. Mitigation included no prior discipline, candor and cooperation, good character, and pro bono work. The discipline included one year's stayed suspension and two years' probation subject to conditions, including 30 days' actual suspension. This order was properly served on Respondent and became effective on August 28, 2011.² A copy of the stipulation and this court's order approving same had previously been properly served on Respondent on April 5, 2011.

On August 5, 2011, and January 12, 2012, the Office of Probation sent Respondent reminder letters regarding the probation conditions at her official address. Neither letter was returned as undeliverable or for any other reason. A probation deputy also telephoned Respondent on October 26 and November 30, 2011, and on March 6, 2012, each time leaving her messages.

Despite these efforts to make Respondent aware of the conditions of her probation and to secure her compliance with them, Respondent did not comply with the following probation conditions:

(a) Within 30 days of the effective date of discipline, Respondent was required to contact the Office of Probation to schedule a meeting to discuss the terms and conditions of probation and meet with the probation deputy either in person or by telephone. Although Respondent contacted the Office of Probation on August 24, 2011, and a telephonic meeting was scheduled for September 2, 2011, Respondent failed to participate in the scheduled meeting.

¹ The court judicially notices the prior disciplinary record.

² In the absence of evidence to the contrary, the court finds that the Clerk of the Supreme Court performed his or her duty by transmitting a copy of the Supreme Court's order to Respondent immediately after its filing. (Rule 8.532(a), Cal. Rules of Court; Evid. C. §664; *In Re Linda D.* (1970) 3 Cal.App.3d 567, 571.)

(b) During the period of probation, Respondent was required to submit written quarterly reports to the Office of Probation on January 10, April 10, July 10 and October 10 of each year, or part thereof during which the probation was in effect, stating under penalty of perjury that she had complied with all provisions of the State Bar Act and Rules of Professional Conduct during said period. Respondent did not submit the quarterly report due on October 10, 2011, until December 2, 2011.

(c) Within six months of the effective date of discipline, Respondent was required to submit to the Office of Probation satisfactory proof of completion of six hours of MCLE-approved courses in law office management, attorney-client relations and/or general legal ethics. No proof of completion of any of such courses has been submitted.

Aggravating Circumstances

Prior Discipline

As previously noted, Respondent has one prior record of discipline. This is an aggravating factor. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct,³ std. 1.2(b)(i).)

Multiple Acts of Misconduct

Respondent engaged in multiple acts of misconduct. (Std. 1.2(b)(ii).)

Lack of Participation in Disciplinary Proceeding

Respondent's failure to participate in this disciplinary proceeding is also an aggravating factor. (Std. 1.2(b)(vi).)

Mitigating Circumstances

It was Respondent's burden to establish mitigating factors. No mitigating factors were shown by the evidence presented to this court.

³ Future references to standard or std. are to this source.

DISCUSSION

The extent of the discipline to be recommended is dependent, in part, on the seriousness of the probation violation, the member's recognition of the misconduct, and the member's prior efforts to comply with the conditions. (*In the Matter of Potack* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 525, 540.) Having considered these factors and the Office of Probation's contentions, the court concludes that actual suspension for one year, as requested, is both required and sufficient to protect the public in this instance. Respondent was aware of the terms and conditions of her disciplinary probation, yet did not comply with them despite reminders from Office of Probation. Her failure to participate in this proceedings is also a matter of considerable concern to this court.

RECOMMENDED DISCIPLINE

Actual Suspension

The court recommends that the probation of respondent Kimberly Allyson Hansen, previously ordered in Supreme Court case matter S193233 (State Bar Court case no. 07-O-12444), be revoked; that the previous stay of execution of the suspension be lifted; and that Respondent be suspended from the practice of law for one year.

Probation

It is recommended that Respondent be placed on probation for two years, with the following conditions:

1. Respondent must comply with the provisions of the State Bar Act, the Rules of Professional Conduct, and all the conditions of this probation.
2. Respondent must maintain, with the State Bar's Membership Records Office *and* the State Bar's Office of Probation, her current office address and telephone number or, if no office is maintained, an address to be used for State Bar purposes. (Bus. & Prof. Code, §

6002.1, subd. (a).) Respondent must also maintain, with the State Bar's Membership Records Office and the State Bar's Office of Probation, her current home address and telephone number. (See Bus. & Prof. Code, § 6002.1, subd. (a)(5).) Respondent's home address and telephone number will not be made available to the general public. (Bus. & Prof. Code, § 6002.1, subd. (d).) Respondent must notify the Membership Records Office and the Office of Probation of any change in any of this information no later than 10 days after the change.

3. Within thirty (30) days after the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation and must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.
4. Respondent must report, in writing, to the State Bar's Office of Probation no later than January 10, April 10, July 10 and October 10 of each year or part thereof in which Respondent is on probation (reporting dates).⁴ However, if Respondent's probation begins less than 30 days before a reporting date, Respondent may submit the first report no later than the second reporting date after the beginning of his probation. In each report, Respondent must state that it covers the preceding calendar quarter or applicable portion thereof and certify by affidavit or under penalty of perjury under the laws of the State of California as follows:

(a) in the first report, whether Respondent has complied with all the provisions of the State Bar Act, the Rules of Professional Conduct, and all other conditions of probation since the beginning of probation; and

⁴ To comply with this requirement, the required report, duly completed, signed and dated, must be received by the Office of Probation on or before the reporting deadline.

(b) in each subsequent report, whether Respondent has complied with all the provisions of the State Bar Act, the Rules of Professional Conduct, and all other conditions of probation during that period.

During the last 20 days of this probation, Respondent must submit a final report covering any period of probation remaining after and not covered by the last quarterly report required under this probation condition. In this final report, Respondent must certify to the matters set forth in subparagraph (b) of this probation condition by affidavit or under penalty of perjury under the laws of the State of California.

5. Subject to the proper or good faith assertion of any applicable privilege, Respondent must fully, promptly, and truthfully answer any inquiries of the State Bar's Office of Probation that are directed to Respondent, whether orally or in writing, relating to whether Respondent is complying or has complied with the conditions of this probation.
6. Within one year after the effective date of the Supreme Court order in this matter, Respondent must attend and satisfactorily complete the State Bar's Ethics School and provide satisfactory proof of such completion to the State Bar's Office of Probation. This condition of probation is separate and apart from Respondent's California Minimum Continuing Legal Education (MCLE) requirements; accordingly, Respondent is ordered not to claim any MCLE credit for attending and completing this course. (Rules Proc. of State Bar, rule 3201.)
7. Within one year after the effective date of the Supreme Court order in this matter, Respondent must provide satisfactory to the State Bar's Office of Probation proof of completion of six (6) hours of of MCLE approved courses in law office management, attorney client relations and/or general legal ethics. This condition of probation is separate and apart from Respondent's California Minimum Continuing Legal Education

(MCLE) requirements; accordingly, Respondent is ordered not to claim any MCLE credit for attending and completing this course. (Rules Proc. of State Bar, rule 3201.)

8. Respondent's probation will commence on the effective date of the Supreme Court order imposing discipline in this matter.

Rule 9.20

It is also recommended that the Supreme Court order Respondent to comply with rule 9.20(a) of the California Rules of Court within 30 calendar days after the effective date of the Supreme Court order in the present proceeding and to file the affidavit provided for in rule 9.20(c) within 40 calendar days after the effective date of the order showing Respondent's compliance with said order.⁵

MPRE

It is not recommended that Respondent be ordered to take and pass the Multistate Professional Responsibility Examination as she is already subject to an order to do so, issued by the Supreme Court in its order S193233.

Costs

It is recommended that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and that such costs be enforceable both as provided in section 6140.7 and as a money judgment.

ORDER REGARDING INACTIVE ENROLLMENT

IT IS THEREFORE ORDERED that respondent Kimberly Allyson Hansen be involuntarily enrolled as an inactive member of the State Bar of California pursuant to Business

⁵ Respondent is required to file a rule 9.20(c) affidavit even if she has no clients. (*Bercovich v. State Bar* (1990) 50 Cal.3d 116, 130.)

and Professions Code section 6007, subdivision (d). This enrollment will be effective three days following service of this order.

IT IS ALSO ORDERED that Respondent's inactive enrollment will be terminated as provided by Business and Professions Code section 6007, subdivision (d)(2).

IT IS RECOMMENDED that the period of Respondent's involuntary inactive enrollment be credited against the period of actual suspension, when it is ordered. (Business and Professions Code section 6007, subdivision (d)(3).)

Dated: June _____, 2012

DONALD F. MILES
Judge of the State Bar Court