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STATE BAR COURT OF CALIFORNIA

HEARING DEPARTMENT - SAN FRANCISCO

In the Matter of	)	Case No.: 15-PM-15016-PEM (S224720)
	)	
<b>DERON ADAM KARTOON,</b>	)	<b>ORDER GRANTING MOTION TO</b>
	)	<b>REVOKE PROBATION AND FOR</b>
<b>Member No. 155925,</b>	)	<b>INVOLUNTARY INACTIVE</b>
	)	<b>ENROLLMENT</b>
<u>A Member of the State Bar.</u>	)	

**Introduction**<sup>1</sup>

In this probation revocation proceeding, respondent Deron Adam Karton is charged with violating his probation conditions imposed by the California Supreme Court. The Office of Probation of the State Bar of California (Office of Probation) seeks to revoke his probation, to impose upon respondent the entire period of suspension previously stayed, and to involuntarily enroll respondent as an inactive member of the State Bar.

The court finds, by preponderance of the evidence, that respondent has violated his probation conditions and hereby grants the motion. Therefore, the court orders that respondent be involuntarily enrolled as an inactive member of the State Bar. The court also recommends, among other things, that respondent's probation be revoked, that the previously stayed, two-year suspension be lifted, and that he be actually suspended for two years and until he provides proof to the State Bar Court of his rehabilitation, fitness to practice and learning and ability in the

<sup>1</sup> Unless otherwise indicated, all references to rules refer to the State Bar Rules of Professional Conduct. Furthermore, all statutory references are to the Business and Professions Code, unless otherwise indicated.



general law before his suspension will be terminated. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(c)(1).)

### **Significant Procedural History**

On October 15, 2015, the Office of Probation filed and properly served a motion to revoke probation on respondent.<sup>2</sup> The motion was mailed to respondent's official membership records address. Respondent did not file a response within 20 days of the service of the motion.

The court took this matter under submission on November 10, 2015.

### **Findings of Fact and Conclusions of Law**

Respondent was admitted to the practice of law in California on December 17, 1991, and has been a member of the State Bar of California at all times since that date.

### **Facts**

On May 5, 2015, in Supreme Court case No. S224720, the California Supreme Court ordered, among other things, that:

1. Respondent be suspended from the practice of law for two years, that execution of the suspension be stayed, that he be placed on probation for three years, and that he be actually suspended for 30 days; and
2. Respondent comply, among other things, with the following probation conditions:
  - A. At the Office of Probation's request, respondent must provide the Office of Probation with medical waivers and access to all of respondent's medical records;
  - B. Respondent must comply with the State Bar Act and the Rules of Professional Conduct, and report such compliance to the Office of Probation under penalty of perjury each January 10, April 10, July 10, and October 10 (quarterly reports);

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<sup>2</sup> The court takes judicial notice of the certified copy of respondent's prior record of discipline attached to the motion (Supreme Court order No. 224720; State Bar Court case No. 13-O-14465).

- C. Respondent must promptly select an abstinence based drug abuse recovery program approved by the Office of Probation; during each of the first 12 weeks of his probation, he was ordered to attend at least five separate meetings which are at least 50 minutes long that are held and sponsored by his approved drug abuse recovery program. Respondent was ordered to provide satisfactory proof of his weekly attendance with each of his quarterly reports; and
- D. Respondent must select a licensed medical laboratory approved by the Office of Probation. Respondent was ordered to arrange to have the laboratory perform, on a monthly basis, specified tests in a specified manner within the first three days of each month of the probation period and cause the laboratory to provide to the Office of Probation within one week of testing the results or screening reports from such tests.

The Supreme Court order became effective on June 4, 2015, 30 days after it was entered. (Cal. Rules of Court, rule 9.18(a).) It was properly served on respondent.<sup>3</sup>

On May 15, 2015, the Office of Probation sent a letter to respondent at his official membership address, reminding him of the terms and conditions of the suspension and probation imposed by the Supreme Court's order and enclosing, among other things, copies of the Supreme Court's order, the probation conditions portion of the stipulation, and instruction sheets and forms to use in submitting quarterly reports. The letter was not returned as undeliverable.

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<sup>3</sup>Although no proof was offered that the Clerk of the Supreme Court served the Supreme Court's order upon respondent, California Rules of Court, rule 8.532(a) requires clerks of reviewing courts to immediately transmit a copy of all decisions of those courts to the parties upon filing. It is presumed pursuant to Evidence Code section 664 that official duties 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 duty and transmitted a copy of the Supreme Court's order to respondent immediately after its filing.

On May 15, 2015, the Office of Probation requested that respondent provide a medical waiver on or before June 4, 2015; to date, respondent has not provided the Office of Probation with a medical waiver.

Respondent's first quarterly report was due October 10, 2015. He has failed to file his first quarterly report.

To date, respondent has not provided to the Office of Probation his selection of an abstinence based drug abuse recovery program for approval. Respondent's first proof of weekly attendance was due with his October 10, 2015 quarterly report. No proof of attendance was submitted.

To date, respondent has not provided to the Office of Probation his selection of a licensed medical laboratory for approval. Additionally, respondent has failed to provide the first four testing results or screening reports due for the months of July, August, September, and October 2015.

### **Conclusions**

Section 6093, subdivision (b), provides that violation of a probation condition constitutes cause for revocation of any probation then pending and may constitute cause for discipline.

Section 6093, subdivision (c), provides that the standard of proof is the preponderance of the evidence. Bad faith is not a requirement for a finding of culpability in a probation violation matter. Instead, a general purpose or willingness to commit an act or permit an omission is sufficient. (*In the Matter of Potack* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 525, 536.)

Respondent did not comply with the conditions of probation, as ordered by the Supreme Court in S224720: (1) Respondent has not provided the Office of Probation with a medical waiver; (2) Respondent has failed to file his first quarterly report due October 10, 2015; (3) Respondent has not provided to the Office of Probation his selection of an abstinence based drug

abuse recovery program for approval; (4) Respondent has not provided to the Office of Probation his selection of a licensed medical laboratory for approval; and (5) Respondent has failed to provide the first four testing results or screening reports due for the months of July, August, September, and October 2015.

As result, the revocation of respondent's probation in California Supreme Court order No. S224720 is warranted.

#### **Aggravation<sup>4</sup>**

##### **Prior Record of Discipline (Std. 1.5(a).)**

In the underlying matter, respondent was found culpable of engaging in the unauthorized practice of law, committing an act of moral turpitude, and failing to cooperate with the State Bar's investigation. He was ordered suspended for two years, stayed, placed on probation for three years, and actually suspended for 30 days. (Supreme Court case No. S224720, effective June 4, 2015; State Bar Court case No. 13-O-14465.)

##### **Multiple Acts (Std. 1.5(b).)**

Respondent committed multiple acts of wrongdoing, including failing to provide the Office of Probation with medical waivers and access to all of his medical records, failing to promptly select an abstinence based drug abuse recovery program; failing to arrange to have a laboratory perform, on a monthly basis, specified tests in a specified manner; failing to file his first quarterly report; failing to provide his selection of a licensed medical laboratory; and failing to provide the first four testing results or screening reports due July, August, September, and October 2015.

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<sup>4</sup> All references to standards (Std.) are to the Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct.

### **Mitigation**

No evidence in mitigation was presented and none is apparent from the record. (Std. 1.6.)

### **Discussion**

Section 6093 authorizes the revocation of probation for a violation of a probation condition, and standard 1.8 requires that the court recommend a greater discipline in this matter than that imposed in the underlying disciplinary proceeding, but any actual suspension cannot exceed the period of stayed suspension imposed in the underlying proceeding. (Rules Proc. of State Bar, rule 5.312.) The extent of the discipline to recommend is dependent, in part, on the seriousness of the probation violation and respondent's recognition of his misconduct and his efforts to comply with the conditions. (*In the Matter of Potack* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 525, 540.)

The Office of Probation requested that respondent be actually suspended for the full amount of stayed suspension and that he should remain suspended until he complies with standard 1.2(c)(1). The court agrees.

### **Recommendations**

The court recommends that the probation of respondent Deron Adam Kartoon, member No. 155925, imposed in Supreme Court case No. S224720 (State Bar Court case No. 13-O-14465) be revoked; that the previous stay of execution of the suspension be lifted; and that respondent be actually suspended from the practice of law for a minimum of two years and he will remain suspended until respondent provides proof to the State Bar Court of his rehabilitation, fitness to practice and learning and ability in the general law. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(c)(1).)

### **Multistate Professional Responsibility Examination**

It is not recommended that respondent be ordered to take and pass the Multistate Professional Responsibility Examination (MPRE) because he was previously ordered to do so in Supreme Court case No. S224720.

### **California Rules of Court, Rule 9.20**

It is further recommended that respondent be ordered to comply with the requirements of rule 9.20 of the California Rules of Court, and to perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of the Supreme Court order in this proceeding. Failure to do so may result in disbarment or suspension.<sup>5</sup>

### **Costs**

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

### **Order of Involuntary Inactive Enrollment**

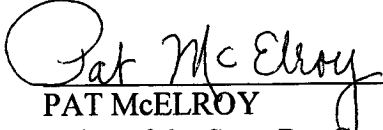
Section 6007, subdivision (d)(1), provides for an attorney's involuntary inactive enrollment for violating probation if: (A) the attorney is under a suspension order any portion of which has been stayed during a period of probation; (B) the court finds that probation has been violated; and (C) the court recommends that the attorney receive an actual suspension due to the probation violation or other disciplinary matter. The requirements of section 6007, subdivision (d)(1) have been met.

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<sup>5</sup> Respondent is required to file a rule 9.20(c) affidavit even if he has no clients to notify. (*Powers v. State Bar* (1988) 44 Cal.3d 337, 341.)

Respondent is ordered to be involuntarily enrolled inactive under section 6007, subdivision (d)(1).<sup>6</sup> This inactive enrollment order will be effective three calendar days after the date upon which this order is served.

Dated: November 25, 2015

  
PAT McELROY  
Judge of the State Bar Court

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<sup>6</sup> The court recommends that any period of involuntary inactive enrollment be credited against the period of actual suspension ordered. (Bus. & Prof. Code, § 6007, subd. (d)(3).)



**CERTIFICATE OF SERVICE**

[Rules Proc. of State Bar; Rule 5.27(B); 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 San Francisco, on November 25, 2015, I deposited a true copy of the following document(s):

ORDER GRANTING MOTION TO REVOKE PROBATION AND FOR INVOLUNTARY INACTIVE ENROLLMENT

in a sealed envelope for collection and mailing on that date as follows:

by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

DERON A. KARTOON  
LAW OFFICES OF DERON A. KARTOON  
3 SIR FRANCIS DRAKE BLVD  
PO BOX 1403  
ROSS, CA 94957

by certified mail, No. , with return receipt requested, through the United States Postal Service at , California, addressed as follows:

by overnight mail at , California, addressed as follows:

By personal service by leaving the documents in a sealed envelope or package clearly labeled to identify the attorney being served with a receptionist or a person having charge of the attorney's office, addressed as follows:

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

Terrie L. Goldade, Office of Probation, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on November 25, 2015.



George Hue  
Case Administrator  
State Bar Court