

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – SAN FRANCISCO

In the Matter of)	Case No.: 08-N-12654-LMA
)	
TERRIE CHUN,)	DECISION AND ORDER OF
)	INVOLUNTARY INACTIVE
Member No. 162139,)	ENROLLMENT
)	
<u>A Member of the State Bar.</u>)	

I. Introduction

In this default disciplinary matter, respondent **Terrie Chun** is found culpable, by clear and convincing evidence, of failing to comply with California Rules of Court, rule 9.20, as ordered by the California Supreme Court on April 15, 2008, in S161057.

In view of respondent’s misconduct and the evidence in aggravation, the court recommends that respondent be disbarred from the practice of law.

II. Pertinent Procedural History

This proceeding was initiated by the Office of the Chief Trial Counsel of the State Bar of California (State Bar). The Notice of Disciplinary Charges (NDC) was filed and properly served via certified mail, return receipt requested, on respondent at her official membership records address (official address) on August 19, 2008. The mailing was returned by the U.S. Postal service as “unclaimed.”

On September 30, 2008, a courtesy copy of the NDC, a September 29, 2008 status conference order, and a letter from the State Bar requesting respondent's participation were sent to respondent by regular first class mail at an address in San Mateo, California, which the State Bar suspected to be that of respondent or a person by the name of "Terrie A. Chun." The September 30, 2008 letter was not returned by the U.S. Postal Service.

On motion of the State Bar, respondent's default was entered on October 29, 2008. The order of entry of default was properly mailed to respondent's official membership records address. On November 1, 2008, respondent was enrolled as an inactive member under Business and Professions Code section 6007, subdivision (e).¹

Respondent never filed a response to the NDC. (Rules Proc. of State Bar, rule 103.)

Respondent did not participate in the disciplinary proceedings. The court took this matter under submission on November 19, 2008, following the filing of the State Bar's brief on discipline.²

III. Findings of Fact and Conclusions of Law

All factual allegations of the NDC are deemed admitted upon entry of respondent's default unless otherwise ordered by the court based on contrary evidence. (Rules Proc. of State Bar, rule 200(d)(1)(A).)

¹ All references to sections are to Business and Professions Code, unless otherwise indicated.

² On November 19, 2008, the State Bar filed a motion requesting the court to accept the late filing of its brief on discipline. Filed with the State Bar's motion were a memorandum of points and authorities and a declaration from the assigned deputy trial counsel (DTC). Attached to the DTC's declaration was the State Bar's Brief Regarding Level of Discipline. Good cause appearing, the motion is granted and the brief is deemed filed as of November 19, 2008.

A. Jurisdiction

Respondent was admitted to the practice of law in California on December 9, 1992, and has been a member of the State Bar since that time.

B. Violation of California Rules of Court, Rule 9.20

On April 15, 2008, in California Supreme Court case No. S161057 (State Bar Court case No. 07-O-10738), the Supreme Court suspended respondent from the practice of law for two years, stayed the execution of the suspension, and actually suspended her for 90 days and until the State Bar Court grants a motion to terminate her actual suspension under rule 205 of the Rules of Procedure of the State Bar. Among other things, the Supreme Court ordered respondent to comply with rule 9.20(a) and (c), within 30 and 40 days, respectively, after the effective date of the Supreme Court order. The order became effective May 15, 2008, and was duly served on respondent.

Rule 9.20(c) mandates that respondent “file with the Clerk of the State Bar Court an affidavit showing that . . . she has fully complied with those provisions of the order entered pursuant to this rule.”

On or about April 15, 2008, the Clerk of the California Supreme Court served upon respondent a copy of the Supreme Court order imposing discipline and directing respondent to comply with rule 9.20. Respondent received the Supreme Court order.

Respondent was to have filed the rule 9.20 affidavit by June 24, 2008, but to date she has not done so and has offered no explanation to this court for her noncompliance. Whether respondent is aware of the requirements of rule 9.20 or of her obligation to comply with those requirements is immaterial. “Willfulness” in the context of rule 9.20 does not require actual knowledge of the provision which is violated. The Supreme Court

has disbarred attorneys whose failure to keep their official addresses current prevented them from learning that they had been ordered to comply with rule 9.20. (*Powers v. State Bar* (1988) 44 Cal.3d 337, 341.)

Therefore, the State Bar has established by clear and convincing evidence that respondent willfully failed to comply with rule 9.20, as ordered by the Supreme Court.³

IV. Mitigating and Aggravating Circumstances

A. Mitigation

No mitigating evidence was offered or received. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(e).)⁴

B. Aggravation

There are several aggravating factors. (Std. 1.2(b).)

Respondent's prior record of discipline is an aggravating circumstance. (St. 1.2(b)(i).) In the underlying matter, California Supreme Court case No. S161057, effective May 15, 2008, respondent was suspended for two years, stayed, and was actually suspended for 90 days and until the State Bar Court terminates her actual suspension under rule 205 of the Rules of Procedure of the State Bar. Her misconduct included failing to perform services competently, seeking to mislead a judicial officer by a false statement of fact, engaging in an act of moral turpitude and dishonesty, failing to report to the State Bar the imposition of a court-ordered sanction against her in the amount of \$1,000, and failing to cooperate with the State Bar.

³ Specifically, rule 9.20(d) provides that a suspended attorney's willful failure to comply with rule 9.20 constitutes a cause for disbarment or suspension and for revocation of any pending probation.

⁴ All further references to standards are to this source.

Respondent demonstrated indifference toward rectification of or atonement for the consequences of her misconduct by failing to comply with rule 9.20(c), even after the NDC in the instant proceeding was filed. (Std. 1.2(b)(v).)

Respondent's failure to participate in this disciplinary matter prior to the entry of her default is a serious aggravating factor. (Std. 1.2(b)(vi).)

V. Discussion

Respondent's willful failure to comply with rule 9.20(c) is extremely serious misconduct for which disbarment is generally considered the appropriate sanction. (*Bercovich v. State Bar* (1990) 50 Cal.3d 116, 131.) Such failure undermines its prophylactic function in ensuring that all concerned parties learn about an attorney's suspension from the practice of law. (*Lydon v. State Bar* (1988) 45 Cal.3d 1181, 1187.) Respondent has demonstrated an unwillingness to comply with the professional obligation and rules of court imposed on California attorneys, although she has been given opportunities to do so.

Therefore, respondent's disbarment is necessary to protect the public, the courts, and the legal community, to maintain high professional standards, and to preserve public confidence in the legal profession. It would undermine the integrity of the disciplinary system and damage public confidence in the legal profession if respondent were not disbarred for her willful disobedience of the Supreme Court order.

VI. Recommended Discipline

The court recommends that respondent **Terrie Chun** be disbarred from the practice of law in the State of California and that her name be stricken from the roll of attorneys in this state.

It is also recommended that the Supreme Court order respondent to comply with California Rules of Court, rule 9.20, paragraphs (a) and (c), within 30 and 40 days, respectively, of the effective date of its order imposing discipline in this matter.⁵

VII. Costs

The court recommends 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.

VIII. Order of Involuntary Inactive Enrollment

It is ordered that respondent be transferred to involuntary inactive enrollment status under section 6007, subdivision (c)(4), and rule 220(c) of the Rules of Procedure of the State Bar. The inactive enrollment will become effective three calendar days after this order is filed.

February _____, 2009

LUCY ARMENDARIZ
Judge of the State Bar Court

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