

STATE BAR COURT OF CALIFORNIA  
HEARING DEPARTMENT – SAN FRANCISCO

In the Matter of ) Case No.: 08-N-13042  
)  
PATRICK J. WOOD ) DECISION AND ORDER OF  
) INVOLUNTARY INACTIVE  
Member No. 191403 ) ENROLLMENT  
)  
A Member of the State Bar. )

I. Introduction

In this default disciplinary matter, respondent Patrick J. Wood (“respondent”) 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 May 20, 2008, in S161894 (State Bar Court Case Nos. 06-O-15058; 07-O-10897 (Cons.)).

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 his official membership records address on October 2, 2008. The mailing was subsequently returned as undeliverable.

Efforts to contact or locate respondent, both by telephone and through internet-based directory assistance websites, were unsuccessful. On motion of the State Bar, respondent’s

default was entered on December 2, 2008. A copy of the order of entry of default was properly mailed to respondent's official membership records address. Said mailing was subsequently returned to the State Bar Court as undeliverable. Respondent was enrolled as an inactive member under Business and Professions Code section 6007, subdivision (e)<sup>1</sup> on December 5, 2008.

Respondent never filed a response to the NDC (Rules Proc. of State Bar, rule 103) and did not participate in the disciplinary proceedings. The court took this matter under submission on January 14, 2009, following the filing of the State Bar's brief on culpability and discipline<sup>2</sup> which requested waiver of a hearing in this matter.

### **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).)

#### **A. Jurisdiction**

Respondent was admitted to the practice of law in California on December 9, 1997, was a member at all times pertinent to these charges, and is currently a member of the State Bar of California.

#### **B. Violation of California Rules of Court, Rule 9.20**

On May 20, 2008, the California Supreme Court filed an order in case number S161894 (State Bar Court Case Nos. 06-O-15058; 07-O-10897 (Cons.)).

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<sup>1</sup> All references to section(s) are to the Business and Professions Code, unless otherwise indicated.

<sup>2</sup> Said motion was accompanied by a motion for late filing which was subsequently granted.

The May 20, 2008 order required respondent to comply with California Rules of Court, rule 9.20 (“rule 9.20”), 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 order.

Notice of this order was duly and properly served on respondent in the manner prescribed by California Rules of Court, rule 8.532(a), at respondent’s address as maintained by the State Bar in accordance with Business and Professions Code section 6002.1.

The May 20, 2008 order became effective on or about June 19, 2008, and at all times thereafter remained in full force and effect.

The deadline for respondent to comply with rule 9.20, subdivision (c), expired on or about July 29, 2008. Respondent failed to comply with rule 9.20, subdivision (c), prior to the July 29, 2008 deadline. As of October 2, 2008, respondent still had not complied with rule 9.20, subdivision (c).<sup>3</sup>

Whether respondent is aware of the requirements of rule 9.20 or of his 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 [referring to the rule by its previous number designation, rule 955].)

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

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<sup>3</sup> There is no indication that respondent has since complied with rule 9.20, subdivision (c).

**C. Violation of Business and Professions Code Section 6103**

Respondent's willful failure to comply with rule 9.20, subdivision (c), constitutes a violation of section 6103, which requires attorneys to obey court orders and provides that the willful disobedience or violation of such orders constitutes cause for disbarment or suspension.

**IV. Mitigating and Aggravating Circumstances**

**A. Mitigation**

No mitigating evidence was offered or received, and none can be gleaned from the record. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(e).)<sup>4</sup>

**B. Aggravation**

Respondent's prior record of discipline is an aggravating circumstance. (Std. 1.2(b)(i).) Respondent has one prior imposition of discipline.

On May 20, 2008, the California Supreme Court, in the underlying matter, issued an order (S161894) suspending respondent from the practice of law for two years, stayed, including a one-year actual suspension and until (1) restitution and (2) the State Bar Court grants a motion to terminate respondent's actual suspension. In this default proceeding, respondent was found culpable of failing to keep his client reasonably informed of significant developments, failing to take steps to avoid reasonably foreseeable prejudice to his client, failing to update his official State Bar membership records address, failing to properly administer his client trust account, and commingling funds in his client trust account. In mitigation, respondent had no prior record of discipline. In aggravation, respondent (1) committed multiple acts of wrongdoing; (2) caused harm to his client; (3) demonstrated indifference toward rectification and atonement for the

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<sup>4</sup> All further references to standard(s) are to this source.

consequences of his misconduct; (4) failed to participate; and (5) committed misconduct surrounded by bad faith.

## **V. Discussion**

Respondent's willful failure to comply with rule 9.20, subdivision (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 obligations and rules of court imposed on California attorneys although he has been given opportunities to do so. Therefore, his 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 his willful disobedience of an order of the California Supreme Court.

## **VI. Recommended Discipline**

The court recommends that respondent Patrick J. Wood be disbarred from the practice of law in the State of California and that his 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, after the effective date of its order imposing discipline in this matter.<sup>5</sup>

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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, supra*, 44 Cal.3d at p. 341.)

## **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 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 of California. The inactive enrollment will become effective three calendar days after this order is filed.

Dated: March \_\_\_\_\_, 2009

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PAT McELROY  
Judge of the State Bar Court