

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – LOS ANGELES

In the Matter of)	Case No.: 09-N-18965-RAH
)	
LISA GERALDINE PROPSTER,)	DECISION AND ORDER OF
)	INVOLUNTARY INACTIVE
Member No. 165059,)	ENROLLMENT
)	
<u>A Member of the State Bar.</u>)	

I. Introduction

In this default disciplinary matter, respondent **Lisa Geraldine Propster** is found culpable, by clear and convincing evidence, of failing to comply with California Rules of Court, rule 9.20,¹ as ordered by the California Supreme Court on September 4, 2009, in S157399 (State Bar Court case No. 08-PM-14531).

In view of respondent's serious 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

¹ References to rules are to the California Rules of Court, unless otherwise notes.

address (official address) on February 2, 2010. The mailing was returned by the U.S. Postal service to the State Bar bearing the stamp, “Refused; Return to Sender.”

On March 26, 2010, Deputy Trial Counsel David T. Sauber (Sauber) searched for respondent’s official membership records telephone number; but, respondent had no official membership records telephone number listed. Sauber then attempted to call a telephone number which respondent had provided to her State Bar probation deputy. However, upon dialing that number Sauber reached a message indicating that the number was no longer working. There was no forwarding number provided. Sauber also called directory assistance for the area that includes respondent’s official address and requested all telephone listings for respondent. Directory assistance had no listing for respondent. In addition, Sauber checked Parker’s directory, but found not address or phone number of which he was not already aware. Finally, Sauber conducted an internet search on Google. But, the search did not reveal a telephone number or address for respondent that the State Bar did not already have.

On motion of the State Bar, respondent’s default was entered on April 15, 2010. The order of entry of default was properly mailed to respondent’s official address. Respondent was enrolled as an inactive member under Business and Professions Code section 6007, subdivision (e),² on April 18, 2010.

Respondent never filed a response to the NDC. (Rules Proc. of State Bar, rule 103.) Nor did respondent participate in the disciplinary proceedings.

After the filing of this court’s Order Vacating Submission Date to allow receipt of respondent’s prior record of discipline, the court took this matter under submission on May 11, 2010.

² All references to sections are to Business and Professions Code, unless otherwise indicated.

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).)

Respondent was admitted to the practice of law in California on June 16, 1993, and has since been a member of the State Bar of California.

Violation of California Rules of Court, Rule 9.20

On September 4, 2009, in California Supreme Court case No. S157399 (State Bar Court case No. 08-PM-14531), the Supreme Court placed respondent on probation for two years, subject to conditions, including that she be suspended for the first year of her probation (with credit given for the period of involuntary inactive enrollment which commenced on March 9, 2009). Among other things, the Supreme Court ordered respondent to comply with California Rules of Court, 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 October 4, 2009, and was duly served on respondent. (Cal. Rules of Court, rules 8.532(a) and 9.18(b).)

California Rules of Court, rule 9.20(c) mandates that respondent "file with the Clerk of the State Bar Court an affidavit showing that he or she has fully complied with those provisions of the order entered under this rule."

Respondent was to have filed the rule 9.20 affidavit by November 13, 2009, 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 in S157399³.

IV. Mitigating and Aggravating Circumstances

The parties bear the burden of establishing mitigation and aggravation by clear and convincing evidence. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct,⁴ stds. 1.2(e) and (b).)

A. Mitigation

No mitigation was submitted into evidence. (Std. 1.2(e).)

B. Aggravation

In aggravation, respondent has two prior records of discipline. (Std. 1.2(b)(i).)

1. On December 20, 2007, respondent was ordered suspended for one year, stayed, with two years' probation, subject to certain conditions, including that she be actually suspended for two months, for committing acts involving moral turpitude, dishonesty or corruption. In March 2006, respondent filed an application with the State Bar's Membership Records Office to transfer from active to inactive membership status, effective retroactively to January 1, 2006.

In a handwritten letter attached to her application for retroactive inactive enrollment, respondent falsely stated that she had not practiced law in 2006, and

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. Additionally, such failure may be punished as a contempt or a crime.

Furthermore, a failure to comply with rule 9.20 constitutes a violation of Business and Professions Code 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.

⁴ Future references to standard(s) or std. are to this source.

that she had no cases. At the time that she asked to be transferred to inactive status, respondent knew that she had actually practiced law as counsel for the plaintiff in a lawsuit pending in the Orange County Superior Court from January 1, 2006 through March 15, 2006. (Supreme Court case No. S157399; State Bar Court case No. 06-O-12120.)

2. On September 4, 2009, in the underlying matter, respondent's probation was ordered revoked and she was ordered placed on probation for two years subject to certain conditions, including, among others, that she be suspended from the practice of law for the first year of her probation for having violated her probation conditions in the previous discipline of December 20, 2007. Respondent's discipline, as ordered on September 4, 2009, resulted from multiple failures to comply with the terms of her probation, including: (1) the failure to timely contact the Office of Probation and timely schedule a meeting with her assigned probation deputy; (2) the failure to submit to the Office of Probation satisfactory evidence of her completion of at least three hours of minimum continuing legal education approved courses in law office management, attorney-client relations, or general legal ethics; and (3) the failure to timely submit her quarterly report which was due April 10, 2008, and the failure to file her probation report, which was due on October 10, 2008. (Supreme Court case No. S157399; 08-PM-14531.)

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 cooperate with the State Bar before the entry of her default, including filing an answer to the NDC, is also 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 obligations 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. Recommendations

A. Discipline

Accordingly, the court recommends that respondent **Lisa Geraldine Propster** 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.

B. California Rules of Court, Rule 9.20

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

⁵Respondent 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.)

C. Costs

It is further 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.

VI. Order of Involuntary Inactive Enrollment

It is ordered that respondent be transferred to involuntary inactive enrollment status under Business and Professions Code 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.

Dated: August _____, 2010

RICHARD A. HONN
Judge of the State Bar Court