

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – LOS ANGELES

In the Matter of)	Case No.: 10-C-10422-DFM
)	
JANICE MARIE CROWELL,)	DECISION AND ORDER OF
)	INVOLUNTARY INACTIVE
Member No. 209659,)	ENROLLMENT
)	
<u>A Member of the State Bar.</u>)	

Respondent Janice Marie Crowell (respondent) was convicted of violating Penal Code section 484 (petty theft), a misdemeanor which involves moral turpitude. Upon finality of the conviction, the Review Department issued an order referring this matter to the hearing department for a hearing and decision recommending the discipline to be imposed.¹

Respondent failed to participate either in person or through counsel, and her default was entered. The State Bar filed a petition for disbarment under the Rules of Procedure of the State Bar, rule 5.85.²

Rule 5.85 provides the procedure to follow when an attorney fails to participate in a disciplinary proceeding after receiving adequate notice and opportunity. The rule provides that if an attorney's default is entered for failing to respond to the notice of hearing on conviction

¹ Pursuant to an order filed on March 25, 2011, the Review Department had placed respondent on interim suspension effective April 22, 2011.

² Unless otherwise indicated, all references to rules are to this source. Rule 5.345(C) makes the default procedures in rules 5.80-5.86, with certain exceptions, applicable in conviction proceedings.

(NOH), and the attorney fails to have the default set aside or vacated within 180 days, the State Bar will file a petition requesting the court to recommend the attorney's disbarment.³

In the instant case, the court concludes that the requirements of rule 5.85 have been satisfied, and therefore, grants the petition and recommends that respondent be disbarred from the practice of law.

FINDINGS AND CONCLUSIONS

Respondent was admitted to practice law in this state on December 1, 2000, and has been a member since then.

Procedural Requirements Have Been Satisfied

On April 21, 2011, the State Bar Court filed and properly served the NOH on respondent by certified mail, return receipt requested, at her membership records address. The NOH notified respondent that her failure to participate in the proceeding would result in a disbarment recommendation. (Rule 5.345.) The return receipt for the NOH was returned indicating it was received by an "agent" named "Jeff Langford."⁴

The State Bar attempted to reach respondent by telephone at her official membership records telephone number, but the number was disconnected. The State Bar also attempted to call respondent on her cellular telephone number listed in the arrest report for her criminal matter; however, the number no longer belonged to respondent. The State Bar also attempted to reach respondent at two different telephone numbers found through two internet searches; however, the State Bar did not reach respondent and was unable to leave any message for her at either number. The State Bar also sent a letter by certified mail, return receipt requested, to

³ If the court determines that any due process requirements are not satisfied, including adequate notice to the attorney, it must deny the petition for disbarment and take other appropriate action to ensure that the matter is promptly resolved. (Rule 5.85(E)(2).)

⁴ The NOH, however, was later returned by the U.S. Postal Service as undeliverable bearing, among other things, a stamp indicating that respondent no longer lived at that address.

respondent at her official membership records address. The State Bar received the return card signed “Jeff Langford,” and the “agent” box next to the signature was checked on the return card.⁵

Respondent failed to file a response to the NOH. On June 1, 2011, the State Bar filed and properly served a motion for entry of respondent’s default. Thereafter, the State Bar filed a declaration of reasonable diligence by the State Bar deputy trial counsel declaring the additional steps taken to provide notice to respondent. (Rule 5.80.) The motion, including the declaration of reasonable diligence, complied with all the requirements for a default. The motion also notified respondent that if she did not timely move to set aside her default, the court would recommend her disbarment. Respondent did not file a response to the motion, and her default was entered on June 30, 2011. The order entering the default was served on respondent at her membership records address by certified mail, return receipt requested. The court also ordered respondent’s involuntary inactive enrollment as a member of the State Bar under Business and Professions Code section 6007, subdivision (e), effective three days after service of the order, and she has remained inactively enrolled since that time.

Respondent also did not seek to have her default set aside or vacated. (Rule 5.83(C)(1) [attorney has 180 days to file motion to set aside default].) On February 8, 2012, the State Bar filed the petition for disbarment. As required by rule 5.85(A), the State Bar reported in the petition that: (1) it has had no contact with respondent since the default was entered; (2) respondent has no prior record of discipline; and (3) the Client Security Fund (CSF) has not paid any claims as a result of respondent’s misconduct. The State Bar also reported in the petition that respondent has no other disciplinary matters pending; however, the court takes

⁵ Effective February 1, 2010, all attorneys are required to maintain a current email address to facilitate communications with the State Bar. (Cal. Rules of Court, rule 9.7(a)(2).) However, respondent’s membership records do not contain an email address for respondent.

judicial notice that charges are, in fact, pending against respondent in case no. 11-N-14036 which was filed on July 28, 2011.⁶ Respondent did not respond to the petition for disbarment or move to set aside or vacate the default. The case was submitted for decision on March 9, 2012.

The Admitted Factual Allegations Warrant the Imposition of Discipline

Upon entry of respondent's default, the factual allegations set forth in the State Bar's statement of facts and circumstances surrounding respondent's conviction are deemed admitted and no further proof is required to establish the truth of such facts. (Rules 5.345(C) & 5.82.) As set forth below in greater detail, respondent's conviction for petty theft supports the conclusion that respondent violated a statute, rule or court order that would warrant the imposition of discipline. (Rule 5.85, subd. (E)(1)(d).)

Case Number 10-C-10422 (Conviction Matter – Penal Code § 484 – Petty Theft)

Respondent was convicted of violating Penal Code section 484 (petty theft) for shoplifting several items from two stores. Petty theft is a crime that necessarily involves moral turpitude. Conviction of a crime involving moral turpitude is cause for discipline. (Bus. & Prof. Code, § 6101, subd. (a).)

Disbarment is Mandated under the Rules of Procedure

Based on the above, the court concludes that the requirements of rule 5.85(E) have been satisfied, and respondent's disbarment must be recommended. In particular:

(1) the NOH was properly served on respondent under rule 5.25;

(2) reasonable diligence was used to notify respondent of the proceedings prior to the entry of her default, as the NOH was served on respondent at her membership records address by certified mail; the State Bar attempted to reach respondent by telephone at her official membership records telephone number, at her cellular telephone number, and at two different

⁶ The court takes judicial notice that respondent has been ordered inactive pursuant to Business and Professions Code section 6007, subdivision (e) in case no. 11-N-14036.

telephone numbers found through two internet searches; and the State Bar sent a letter by certified mail, return receipt requested, to respondent at her official membership records address.

(3) the default was properly entered under rule 5.80; and

(4) respondent's conviction, and the factual allegations in the statement of facts and circumstances surrounding respondent's conviction deemed admitted by the entry of the default, support a finding that respondent violated a statute, rule or court order that would warrant the imposition of discipline.

Despite adequate notice and opportunity, respondent failed to participate in this disciplinary proceeding. As set forth in the Rules of Procedure of the State Bar, the court must recommend her disbarment.

RECOMMENDATION

Disbarment

The court recommends that respondent Janice Marie Crowell be disbarred from the practice of law in the State of California and that her name be stricken from the roll of attorneys.

Rule 9.20

The court also recommends 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.

Costs

The court further recommends that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10, such costs being enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

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ORDER OF INVOLUNTARY INACTIVE ENROLLMENT

In accordance with Business and Professions Code section 6007, subdivision (c)(4), the court orders that Janice Marie Crowell, State Bar number 209659, be involuntarily enrolled as an inactive member of the State Bar of California, effective three calendar days after the service of this decision and order. (Rules Proc. of State Bar, rule 5.111(D).)

Dated: April _____, 2012

DONALD F. MILES
Judge of the State Bar Court