

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – SAN FRANCISCO

In the Matter of)	Case No.: 10-N-05933
)	
TERRY ROMERO COLLINS)	DECISION AND ORDER OF
)	INACTIVE ENROLLMENT
Member No. 225677)	
)	
<u>A Member of the State Bar.</u>)	

INTRODUCTION

Respondent Terry Romero Collins was charged with a single count of misconduct of willfully failing to comply with California Rules of Court, rule 9.20,¹ as ordered by the California Supreme Court. Respondent's default was entered in this case. The court finds by clear and convincing evidence that he is culpable of the charged violation. In view of his misconduct and the evidence in aggravation, the court recommends that respondent be disbarred from the practice of law.

PROCEDURAL HISTORY

The notice of disciplinary charges (NDC) in this case was filed on July 28, 2010, and was served on respondent. A status conference was held on September 13, 2010. Respondent failed to appear. On September 23, 2010, respondent filed an answer to the NDC. On the same day, the State Bar filed motions to strike respondent's answer and to enter his default. Respondent did not file opposition to either motion. A second status conference was held on October 4,

¹ All further references to "rules" are to these rules unless otherwise noted.

2010. Respondent again failed to appear. On October 12, 2010, the Court granted the motions to strike respondent's answer and to enter his default.

The matter was taken under submission for decision on November 8, 2010, after the State Bar waived a hearing and submitted a brief on the issues of culpability and discipline. Exhibits one and two attached to the brief are admitted into evidence.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Culpability

Pursuant to former rule 200(d)(1)(A) of the Rules of Procedure of the State Bar,² upon entry of default the factual allegations in the NDC are deemed admitted and no further proof is required to establish the truth of such facts. Accordingly, the court adopts the facts alleged in the NDC as its factual findings. Briefly, those facts show that respondent was admitted to the practice of law in the State of California on June 9, 2003, and has been a member since then.

By order filed on March 26, 2010, the California Supreme Court suspended respondent from the practice of law for two years and placed him on probation for three years subject to conditions, including that he be suspended for a minimum of 90 days. (Supreme Court case no. S179641; State Bar Court case nos. 08-O-10113; 09-H-13756.) The Supreme Court also ordered respondent to comply with rule 9.20, and perform the acts specified in subdivisions (a) and (c) of the rule within 30 and 40 days, respectively, after the effective date of the order. Respondent was served with, and received, a copy of this order.

The Supreme Court order was effective on April 25, 2010, and at all times thereafter remained in full force and effect. Respondent was therefore required to comply with rule 9.20(a) no later than May 25, 2010, and with rule 9.20(c) no later than June 4, 2010. Rule 9.20(c)

² The Rules of Procedure of the State Bar were amended effective January 1, 2011. However, the amended rules do not apply to this proceeding. (See Rules Proc. of State Bar (eff. Jan. 1, 2011), Preface, item 1.)

mandates that the attorney “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 did not file the affidavit required by rule 9.20(c).

The term “willful” in the context of rule 9.20 does not require bad faith or actual knowledge of the provision which is violated. (*Lydon v. State Bar* (1988) 45 Cal.3d 1181, 1186.) 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, 341-342.) Based on the foregoing, the court concludes that respondent willfully failed to comply with rule 9.20, as ordered by the Supreme Court on March 26, 2010.

Mitigating and Aggravating Circumstances

No mitigating circumstances have been shown. In aggravation, respondent has been disciplined on two prior occasions. The first was the discipline underlying the Supreme Court’s March 26, 2010, order in this case. Respondent stipulated that he represented three separate clients in civil matters and failed to: account to a client; return unearned fees to a client; communicate with two clients; perform legal services competently; obey a court order; and obtain a client’s written consent before accepting fees from a non-client. He also stipulated that he failed to comply with numerous conditions attached to a prior public reproof.

The second prior discipline was the above public reproof, imposed on July 31, 2008. (State Bar Ct. case no. 07-O-12116). In a single client matter, respondent stipulated that he failed to: return unearned fees to his client; account to his client; and cooperate with the State Bar’s investigation of the case.

DISCUSSION

The purpose of State Bar disciplinary proceedings is not to punish the attorney, but to protect the public, to preserve public confidence in the profession, and to maintain the highest possible professional standards for attorneys. (*Chadwick v. State Bar* (1989) 49 Cal.3d 103, 111; Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.3.) Rule 9.20(d) states in pertinent part: “A suspended member’s willful failure to comply with the provisions of this rule is a cause for disbarment or suspension.”

Respondent’s willful failure to comply with rule 9.20 is extremely serious misconduct for which disbarment is generally the appropriate sanction. (*Bercovich v. State Bar* (1990) 50 Cal.3d 116, 131; *Lydon v. State Bar, supra*, 45 Cal.3d at p. 1188; *Powers v. State Bar, supra*, 44 Cal.3d at p. 342.) A violation of the rule undermines the critical prophylactic function of ensuring that all concerned parties learn about an attorney's suspension from the practice of law. (*Lydon v. State Bar, supra*, 45 Cal.3d at p. 1187.) Moreover, failing to participate in this case shows that respondent comprehends neither the seriousness of the charges against him nor his duty as an officer of the court to participate in disciplinary proceedings. (*Conroy v. State Bar* (1991) 53 Cal.3d 495, 507-508.)

Respondent’s current misconduct, his prior discipline and his failure to participate in this case demonstrate his inability or unwillingness to comply with his professional obligations. As a consequence, 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.

RECOMMENDATION

It is recommended that respondent Terry Romero Collins be disbarred from the practice of law in the State of California and that his name be stricken from the roll of attorneys. The

court further recommends that respondent be ordered to comply with California Rules of Court, 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 Supreme Court order in this matter.³

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

ORDER OF INACTIVE ENROLLMENT

In accordance with Business and Professions Code section 6007, subdivision (c)(4), the court orders that Terry Romero Collins, State Bar number 225677, be involuntary 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, former rule 220(c).)

Dated: January _____, 2011

LUCY ARMENDARIZ
Judge of the State Bar Court

³ An attorney's failure to comply with rule 9.20 may be punished as a crime or a contempt. (Cal. Rules of Court, rule 9.20(d).) In addition, 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.)