

STATE BAR COURT OF CALIFORNIA  
HEARING DEPARTMENT – LOS ANGELES

In the Matter of	)	Case No. 11-N-11529; 11-O-11889
	)	
SYDNEY KEYTH ERICSON,	)	DECISION AND ORDER OF
	)	INVOLUNTARY INACTIVE
Member No. 50457,	)	ENROLLMENT
	)	
A Member of the State Bar.	)	
_____	)	

Respondent Sydney Keyth Ericson was charged with failing to comply with (1) California Rule of Court, rule 9.20(c) and (2) his prior disciplinary conditions of probation. He failed to participate either in person or through counsel and his default was entered. The Office of the Chief Trial Counsel (State Bar) filed a petition for disbarment under the Rules of Procedure of the State Bar, rule 5.85.<sup>1</sup>

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 disciplinary charges (NDC), 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.<sup>2</sup>

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.

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<sup>1</sup> Unless otherwise indicated, all references to rules are to this source.  
<sup>2</sup> 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).)

## **FINDINGS AND CONCLUSIONS**

Respondent was admitted to practice law in this state on January 5, 1972, and has been a member since then.

### **Procedural Requirements Have Been Satisfied**

On April 19, 2011, the State Bar filed and properly served the NDC on respondent by certified mail, return receipt requested, at his membership records address as well as two other addresses the State Bar had found for respondent. The NDC notified respondent that his failure to participate in the proceeding would result in a disbarment recommendation. (Rule 5.41.) The certified mail receipt was signed by Marian Ericson, believed to be respondent's wife.

Thereafter, the State Bar called respondent at the telephone number listed in his membership records and left a message advising him of the pendency of this case.<sup>3</sup> Respondent did not respond to the message. The State Bar also performed an internet search for alternative contact information. The search found that respondent had an interest in property located in South Dakota. The NDC was served on respondent, and return receipt was signed, at this South Dakota address.

Respondent failed to file a response to the NDC. On May 24, 2011, the State Bar filed a motion for entry of respondent's default. The motion complied with all the requirements for a default, including a supporting 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 also notified respondent that if he did not timely move to set aside or vacate his default, the court would recommend his disbarment. Respondent did not file a response to the motion and his default was entered on June 8, 2011. The order entering the default was served on

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<sup>3</sup> 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).) Respondent does not have an email address listed in his membership records.

respondent at his 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), and he has remained inactively enrolled since that time.

Respondent also did not seek to have his default set aside or vacated. (Rule 5.83(C)(1) [attorney has 180 days to file motion to set aside default].) On December 27, 2011, 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) no other disciplinary matters are pending against respondent; (3) respondent has a record of prior discipline; and (4) the Client Security Fund has not paid any claims as a result of respondent's misconduct. 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 January 23, 2012.

Respondent has been discipline on three prior occasions. On December 24, 2008, he was suspended for two years, execution of which was stayed, and he was placed on probation for three years on conditions, including 30 days actual suspension. The misconduct involved a single client matter and in which respondent obtained an adverse interest in his client's property without complying with rule 3-300 of the Rules of Professional Conduct.

On September 28, 2010, respondent was suspended from the practice of law for a minimum of 90 days and until he complied with specified conditions. Respondent did not participate in this case and his default was entered. The misconduct involved a single client matter in which respondent failed to communicate with his client, failed to release the client's file upon his termination from employment, and failed to render an accounting to his client regarding advanced fees he received from the client.

On March 1, 2011, he was suspended from the practice of law for a minimum of one year and until he complied with specified conditions. Respondent did not participate in this case either and his default was entered. The misconduct involved a single matter in which respondent failed to comply with the probation conditions imposed by the Supreme Court in the December 2008 discipline case.

### **The Admitted Factual Allegations Warrant the Imposition of Discipline**

Upon entry of respondent's default, the factual allegations in the NDC are deemed admitted and no further proof is required to establish the truth of such facts. (Rule 5.82.) As set forth below in greater detail, the factual allegations in the NDC here support the conclusion that respondent is culpable as charged and, therefore, violated a statute, rule or court order that would warrant the imposition of discipline. (Rule 5.85, subd. (E)(1)(d).)

#### **1. Case Number 11-N-11529 (Rule 9.20 Matter)**

Count One – respondent violated California Rule of Court, rule 9.20(c) (duties of disbarred, resigned or suspended attorneys) by failing to file proof of compliance with the rule as ordered by the Supreme Court in the September 2010 discipline case.

#### **2. Case Number 11-O-11889 (Probation Matter)**

Count Two – respondent violated Business and Profession Code section 6068, subdivision (k) (duty to comply with probation conditions), by failing to comply with the probation conditions imposed by the Supreme Court in the December 2008 discipline case.

### **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 NDC 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 his default as the NDC was served on respondent at his membership records address as well as another address where respondent owned property, and the State Bar attempted to contact him at the telephone number listed in his membership records;

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

(4) the factual allegations in the NDC 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 his disbarment.

## **RECOMMENDATION**

### **Disbarment**

The court recommends that respondent Sydney Keyth Ericson be disbarred from the practice of law in the State of California and that his 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.

**ORDER OF INVOLUNTARY INACTIVE ENROLLMENT**

In accordance with Business and Professions Code section 6007, subdivision (c)(4), the court orders that Sydney Keyth Ericson, State Bar number 50457, 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: March \_\_\_\_\_, 2012

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LUCY ARMENDARIZ  
Judge of the State Bar Court