

**FILED**

AUG 12 2013

STATE BAR COURT CLERK'S OFFICE  
SAN FRANCISCO

**STATE BAR COURT OF CALIFORNIA  
HEARING DEPARTMENT – LOS ANGELES**

In the Matter of	)	Case No.: 11-O-11689
	)	
<b>DRAGO CHARLES BARIC</b>	)	<b>ORDER</b>
	)	
<b>Member No. 105383</b>	)	
	)	
<u>A Member of the State Bar.</u>	)	

On July 23, 2013, respondent Drago Charles Baric filed a motion for reconsideration of the order denying his motion set aside his default. On August 1, 2013, the State Bar filed a response opposing the motion.

The court previously ruled that respondent had actual notice of the discipline case as he had spoken to the deputy trial counsel (DTC) about it before the default was entered. Respondent asserts that he was suffering from depression and doesn't "really" remember speaking to the DTC. The court denied respondent's motion to set aside his default primarily because he had not presented any expert testimony showing he suffered from depression. Respondent has remedied that failure in the present motion for reconsideration.

The law favors a trial on the merits. Doubts in deciding whether to grant a motion to set aside a default are resolved in favor of the party seeking relief, and if that party has moved promptly for relief, only slight evidence will justify an order granting relief. (*Elston v. City of Turlock* (1985) 38 Cal.3d 227, 233.) Respondent's depression provides sufficient evidence to conclude that respondent's failure to file a response to the NDC was a result of his mistake,

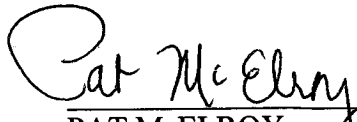
inadvertence, surprise, or excusable neglect within the meaning of Code of Civil Procedure, section 473, subdivision (b). The motion reconsideration is therefore granted and the default is set aside. The case administrator is directed to file respondent's proposed response to the NDC, received June 4, 2013.

Respondent's involuntary inactive enrollment imposed by the court's March 6, 2013, and April 16, 2012, orders is terminated, effective as of the file date of this order. This order does not affect respondent's ineligibility to practice law that has been imposed for any other cause.

A status conference is set for August 26, 2013, at 10:00 a.m. to discuss new trial and related dates.

**IT IS SO ORDERED.**

Dated: August 12, 2013

  
PAT McELROY  
Judge of the State Bar Court

## CERTIFICATE OF SERVICE

[Rule 62(b), Rules Proc.; Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of San Francisco, on August 12, 2013, I deposited a true copy of the following document(s):

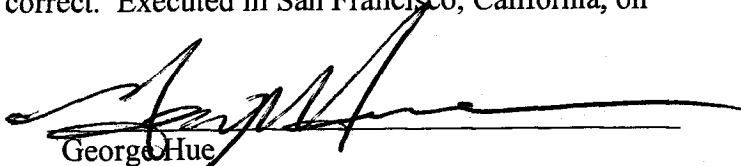
### ORDER

in a sealed envelope for collection and mailing on that date as follows:

- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:
- DRAGO CHARLES BARIC  
1140 HIGHLAND AVE # 102  
MANHATTAN BEACH, CA 90266
- ☐ by certified mail, No. , with return receipt requested, through the United States Postal Service at , California, addressed as follows:
- ☐ by overnight mail at , California, addressed as follows:
- ☐ By personal service by leaving the documents in a sealed envelope or package clearly labeled to identify the attorney being served with a receptionist or a person having charge of the attorney's office, addressed as follows:
- ☒ by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

Agustin Hernandez, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on August 12, 2013.

  
George Hue  
Case Administrator  
State Bar Court