

STATE BAR COURT OF CALIFORNIA  
HEARING DEPARTMENT – LOS ANGELES

In the Matter of	)	Case No.: <b>11-O-14191-RAP</b>
	)	
<b>ANTONIA ITUEN WOGHIREN,</b>	)	<b>DECISION AND ORDER OF</b>
	)	<b>INVOLUNTARY INACTIVE</b>
<b>Member No. 208483,</b>	)	<b>ENROLLMENT</b>
	)	
<u>A Member of the State Bar.</u>	)	

Respondent Antonia Ituen Woghiren (respondent) was charged with (1) the unauthorized practice of law; (2) illegal fee; (3) moral turpitude - misappropriation; (4) failing to notify of receipt of client funds; (5) failing to pay client funds promptly; (6) moral turpitude – misrepresentation; and (7) failing to cooperate in a State Bar investigation. She failed to participate either in person or through counsel, and her default was entered. The Office of the Chief Trial Counsel (State Bar) filed a petition for disbarment under rule 5.85 of the Rules of Procedure of the State Bar.<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),

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

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.

### **FINDINGS AND CONCLUSIONS**

Respondent was admitted to practice law in this state on October 24, 2000, and has been a member since then.

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

On November 30, 2011, the State Bar filed and properly served the NDC on respondent by certified mail, return receipt requested, at her membership records address. The return receipt was returned to the State Bar, signed by respondent, and indicating that the NDC was received on December 2, 2011. The NDC notified respondent that her failure to participate in the proceeding would result in a disbarment recommendation. (Rule 5.41.)

Thereafter, the State Bar attempted to reach respondent by calling her membership records telephone number, sending an email message along with a copy of the NDC to the email address listed on respondent's membership records address,<sup>3</sup> performing an internet search for respondent, and sending a letter by certified mail, return receipt requested, to her membership records address.

Respondent failed to file a response to the NDC. On January 27, 2012, the State Bar filed and properly served a motion for entry of respondent's default. The motion complied with all

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<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).)

<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).)

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 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 February 16, 2012. 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 August 23, 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) the State Bar has had contact with respondent since her default was entered;<sup>4</sup> (2) there are four investigations pending against respondent;

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<sup>4</sup> On February 17, 2012, Deputy Trial Counsel Kimberly G. Anderson (Anderson) received a telephone call from respondent about the case. Anderson informed respondent that it looked to her from the State Bar's computer system that the State Bar had filed a motion for entry of respondent's default, and that respondent's default had been entered or was about to be entered. Anderson told respondent, among other things, that she needed to file a motion to set aside the default as soon as possible. Respondent stated that she intended to file the motion to set aside as soon as possible. Anderson told respondent that she could ultimately be disbarred if she did not set aside her default. Anderson gave respondent the name and telephone number of Gavin Vasquez (Vasquez), the State Bar investigator assigned to two additional investigation matters pertaining to respondent and told her to contact him. Respondent agreed to do so. Anderson also directed respondent to Deputy Trial Counsel Cynthia Reed (Reed) and gave respondent Reed's telephone number. As of February 29, 2012, however, Reed had not heard from respondent since sometime prior to the entry of default. In March 2012, respondent contacted State Bar Investigator Gavin Vasquez. On March 14, 2012, respondent left a telephone message for Deputy Trial Counsel Nancy Brown (Brown) stating that she had just gotten out of the hospital; requesting a telephone call back at a certain number; and stating that she wanted to set aside the default. Attempts by Brown to reach respondent at the telephone

(3) respondent has no prior record of discipline; and (4) the Client Security Fund (CSF) has not made payments resulting from respondent's conduct; however, CSF appears to have received claims regarding respondent. 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 September 18, 2012.

### **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 support the conclusion that respondent is culpable as charged, except as otherwise noted and, therefore, violated a statute, rule or court order that would warrant the imposition of discipline. (Rule 5.85(E)(1)(d).)

#### **Case Number 11-O-14191 (Reed Matter)**

Count One – respondent willfully violated Business and Professions Code section 6068, subdivision (a) (attorney's duty to support Constitution and laws of United States and California) by accepting legal employment from a client and holding herself out to the client and the client's former attorney as practicing or entitled to practice law and practicing law when she was not an active member of the State Bar due to nonpayment of her State Bar membership fees in willful violation of Business and Professions Code sections 6125 and 6126, thereby willfully failing to support the laws of California.

Count Two – respondent willfully violated rule 4-200(A) of the Rules of Professional Conduct (illegal fee) by accepting \$1,100 in advanced fees from her client when she knew she was not entitled to practice law.

Count Three – respondent willfully violated Business and Professions Code section 6106 (commission of act of moral turpitude, dishonesty or corruption) by negotiating a \$400 check she  

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number she left in her message, at her membership records telephone number, and by email were unsuccessful.

received from her client's former attorney, failing to advise her client of the receipt of the \$400, intentionally concealing her receipt of the \$400 from her client, and by failing to disburse the \$400 to her client.

Count Four – respondent willfully violated rule 4-100(B)(1) of the Rules of Professional Conduct (notification to client of receipt of client property) by failing to advise her client of the receipt of the \$400.

Count Five – the State Bar failed to prove that respondent willfully violated rule 4-100(B)(4) of the Rules of Professional Conduct, as there is no evidence that the client requested the funds from respondent.

Count Six – respondent willfully violated Business and Professions Code section 6106 by holding herself out to her client and the client's former attorney as entitled to practice law when she knew she was suspended due to non-payment of her State Bar membership fees, by accepting advanced fees from her client and entering into a retainer agreement with him when she had actual knowledge of her suspension, and by writing a letter to her client's former attorney on letterhead expressly stating she was an attorney when she had actual knowledge of her suspension.

Count Seven – respondent willfully violated Business and Professions Code section 6068, subdivision (i) by not providing a written response to the allegations in case No. 11-O-14191 or otherwise cooperating in the investigation of the matter.

### **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) respondent had actual notice of this disciplinary proceeding as the State Bar filed and properly served the NDC on respondent by certified mail, return receipt requested, at her membership records address, and the return receipt was returned to the State Bar, signed by respondent, and indicating that the NDC was received on December 2, 2011. Reasonable diligence was also used to notify respondent of the proceedings prior to the entry of her default, as the State Bar attempted to reach respondent by certified letter, telephone and email, and performed an internet search for respondent;<sup>5</sup>

(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 actual and 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 Antonia Ituen Woghiren be disbarred from the practice of law in the State of California and that her name be stricken from the roll of attorneys.

### **Restitution**

The court also recommends that respondent be ordered to make restitution to the Bob Reed in the amount of \$1,500, plus 10% interest per year from November 16, 2010. Any restitution owed to the Client Security Fund is enforceable as provided in Business and Professions Code section 6140.5, subdivisions (c) and (d).

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<sup>5</sup> Respondent also spoke with Deputy Trial Counsel Anderson, Investigator Vasquez, and Deputy Trial Counsel Brown after the entry of her default.

**Rule 9.20**

The court also recommends that respondent be ordered to comply with the requirements of 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 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 Antonia Ituen Woghiren, State Bar number 208483, 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. (Rule 5.111(D).)

Dated: November 27, 2012

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RICHARD A. PLATEL  
Judge of the State Bar Court