

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – LOS ANGELES

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| In the Matter of |) | Case No.: 12-N-17218-RAP |
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| MAYRA IVELLISSE LAUREANO, |) | DECISION AND ORDER OF |
| |) | INVOLUNTARY INACTIVE |
| Member No. 194702, |) | ENROLLMENT |
| |) | |
| <u>A Member of the State Bar.</u> |) | |

Respondent Mayra Ivellisse Laureano (respondent) was charged with willfully violating California Rules of Court, rule 9.20. She failed to appear at the trial of this case 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.¹

Rule 5.85 provides the procedure to follow when an attorney fails to appear at trial after receiving adequate notice and opportunity. The rule provides that, if an attorney’s default is entered for failing to appear at trial and the attorney fails to have the default set aside or vacated within 90 days, the State Bar will file a petition requesting the court to recommend the attorney’s disbarment.²

¹ Unless otherwise indicated, all references to rules are to this source.

² 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).)

In the instant case, the court concludes that all of 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 the practice of law in California on April 6, 1998, and has been a member of the State Bar since then.

Procedural Requirements Have Been Satisfied

On November 28, 2012, the State Bar filed and properly served the notice of disciplinary charges (NDC) in this matter on respondent by certified mail, return receipt requested, to her membership records address. The NDC was also served on respondent at an alternate address by first-class mail. On December 26, 2012, respondent filed her response to the NDC.

Respondent participated in a status conference held on January 3, 2013, at which time the court set trial to commence in this matter on March 11, 2013. On January 10, 2013, the court filed and served on respondent at her membership records address by first-class mail, postage paid, an order setting forth that trial was set to start on March 11, 2013.

The State Bar appeared for trial on March 11, 2013, but respondent did not.

Finding that all of the requirements of rule 5.81(A) were satisfied, the court entered respondent's default by order filed March 11, 2013. The order notified respondent that if she did not timely move to set aside her default, the court would recommend her disbarment. The order also placed respondent on involuntary inactive status 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 did not seek to have her default set aside or vacated. (Rule 5.83(C)(2) [attorney has 90 days after order entering default is served to file motion to set aside default].)

On June 25, 2013, the State Bar filed the petition for disbarment.³ As required by rule 5.85(A), the State Bar reported in the petition that: (1) respondent has not contacted the State Bar since March 22, 2013, the date her default was entered and the order entering default was served on respondent; (2) there are no other investigations or disciplinary charges pending; (3) respondent has two records of prior discipline; and (4) the Client Security Fund (CSF) has not paid out any claims as a result of respondent's misconduct.⁴ Respondent has not responded to the petition for disbarment or moved to set aside or vacate the default. The case was submitted for decision on July 24, 2013.

Respondent has been disciplined on two prior occasions. Pursuant to a Supreme Court order filed on November 9, 2011, respondent was suspended for one year, the execution of which was stayed, and she was placed on probation for two years subject to certain conditions. Respondent stipulated in this matter to (1) recklessly, intentionally or repeatedly failing to perform legal services with competence in two matters; (2) failing to promptly return unearned fees; and (3) failing to promptly release, upon termination of employment, to the client(s), at the request of the client(s), all client papers and property.

Pursuant to a Supreme Court order filed on July 12, 2012, respondent was suspended for one year, the execution of which was stayed, and she was placed on probation for two years subject to conditions, including a six-month suspension. Respondent stipulated that she recklessly, intentionally or repeatedly failed to perform legal services with competence (two matters); failed to render appropriate accounts to a client; failed to refund unearned fees (two matters); failed to participate and cooperate in a disciplinary investigation (two matters); failed to

³ The disbarment petition was properly served on respondent by certified mail, return receipt requested, to her membership records address.

⁴ However, pursuant to Evidence Code section 452(h), the court takes judicial notice of respondent's State Bar membership records which reflect that as of August 12, 2013, records shows that the CSF has paid claims against respondent.

a keep a client reasonably informed of significant developments; and failed to support the Constitution and laws of the United States and of this state by appearing in court on a client's behalf on at least three occasions when she knew that she was enrolled on involuntary inactive status.

The Admitted Factual Allegations Warrant the Imposition of Discipline

Upon entry of a 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 and, therefore, violated a statute, rule or court order that would warrant the imposition of discipline. (Rule 5.85(E)(1)(d).)

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Respondent willfully violated California Rules of Court, rule 9.20 (duties of disbarred, resigned or suspended attorneys), by failing to file a declaration of compliance with rule 9.20 in conformity with the requirements of rule 9.20(c), thereby failing to timely comply with the provisions of the July 12, 2012, Supreme Court order requiring compliance with California Rules of Court, rule 9.20.

Disbarment is Recommended

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

- (1) the NDC was properly served on respondent under rule 5.25;
- (2) respondent had actual notice of this proceeding and of the trial date prior to entry of the default;
- (3) the default was properly entered under rule 5.81; 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 notice and opportunity, respondent failed to appear for the trial of this disciplinary proceeding. As set forth in the Rules of Procedure of the State Bar, the court recommends disbarment.

RECOMMENDATION

Disbarment

The court recommends that respondent Mayra Ivellisse Laureano be disbarred from the practice of law in the State of California and that her name be stricken from the roll of attorneys.

California Rules of Court, 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 Mayra Ivellisse Laureano, State Bar Number 194702, be involuntarily enrolled

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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: October 18, 2013

RICHARD A. PLATEL
Judge of the State Bar Court