

STATE BAR COURT OF CALIFORNIA  
HEARING DEPARTMENT – LOS ANGELES

|                                   |   |                                 |
|-----------------------------------|---|---------------------------------|
| In the Matter of                  | ) | Case No.: <b>12-O-14161-RAP</b> |
|                                   | ) |                                 |
| <b>JUDITH LASCH HUBERT,</b>       | ) | <b>DECISION AND ORDER OF</b>    |
|                                   | ) | <b>INVOLUNTARY INACTIVE</b>     |
| <b>Member No. 93982,</b>          | ) | <b>ENROLLMENT</b>               |
|                                   | ) |                                 |
| <u>A Member of the State Bar.</u> | ) |                                 |

Respondent Judith Lasch Hubert (respondent) was charged with failing to comply with probation conditions imposed pursuant to a Supreme Court order. 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), 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>

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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).)

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 December 16, 1980, and has been a member since then.

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

On October 31, 2012, the State Bar filed and properly served the NDC in this matter on respondent by certified mail, return receipt requested, at her membership records address. The NDC notified respondent that her failure to participate in the proceeding would result in a disbarment recommendation. (Rule 5.41.) The return receipt was returned to the State Bar, but the signature on the return card was not legible.

Respondent had actual notice of this proceeding. The deputy trial counsel spoke to respondent on three occasions, each time informing respondent that she was ordered by the court to file a Motion for Entry of Default within two weeks if respondent did not file a response to the NDC. On December 19, 2012, during their last telephone call, respondent acknowledged receiving documents that were mailed to her on December 7, 2012.<sup>3</sup> As respondent had stated during earlier conversations, she again stated that she believed that she received the NDC. Respondent also stated she was placing a response to the NDC in the mail that afternoon.

Nevertheless, respondent failed to file a response to the NDC. On December 20, 2012, the State Bar filed and properly served a motion for entry of default on respondent by certified mail, return receipt requested, at her membership records address. The motion complied with all the requirements for a default, including a supporting declaration of reasonable diligence by the

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<sup>3</sup> On December 7, 2012, the assigned deputy trial counsel sent documents, including the NDC, to respondent by first-class mail to respondent's membership records address.

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 January 9, 2013. The order entering the default was properly 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 July 23, 2013, the State Bar filed and properly served the petition for disbarment on respondent by certified mail, return receipt requested, at respondent's membership records address. As required by rule 5.85(A), the State Bar reported in the petition that: (1) it has had no contact with respondent since on or about January 9, 2013, the date the order entering her default was filed and served; (2) there are no other disciplinary matters pending against respondent; (3) respondent has a prior record of discipline; and (4) the Client Security Fund has not made any payments resulting from respondent's conduct. 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 August 20, 2013.

Respondent has one prior record of discipline.<sup>4</sup> Pursuant to a Supreme Court order filed on March 24, 2011, respondent was suspended from the practice of law for one year, the execution of which was stayed, and she was placed on probation for one year subject to

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<sup>4</sup> The court admits into evidence the certified copy of respondent's prior record of discipline that is attached as exhibit 1 to the State Bar's July 23, 2013, petition for disbarment after default.

conditions. Respondent stipulated in the prior disciplinary matter to culpability and discipline for failing to act competently and violating a court order.

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

#### **Case Number 12-O-14161 (Probation Matter)**

Respondent willfully violated Business and Professions Code section 6068, subdivision (k) (duty to comply with probation conditions) by failing to comply with specified probation conditions imposed by the Supreme Court in its March 24, 2011, Order.

### **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, as she spoke with the assigned deputy trial counsel on three occasions, including one time when she acknowledged receipt of documents sent to her that included the NDC;
- (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 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 recommends disbarment.

### **RECOMMENDATION**

#### **Disbarment**

The court recommends that respondent Judith Lasch Hubert 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 Judith Lasch Hubert, State Bar number 93982, 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 1, 2013

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RICHARD A. PLATEL  
Judge of the State Bar Court

