

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – LOS ANGELES

In the Matter of)	Case No.: 12-O-16955-RAH
)	
TONI LORILEE CHRISTIANI,)	DECISION AND ORDER OF
)	INVOLUNTARY INACTIVE
Member No. 202884,)	ENROLLMENT
)	
<u>A Member of the State Bar.</u>)	

In this matter, respondent Toni Lorilee Christiani (respondent) was charged with one count of misconduct stemming from a disciplinary probation matter. Respondent failed to participate either in person or through counsel, and her default was entered. The Office of the Chief Trial Counsel of the State Bar of California (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 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.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 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 November 29, 1999, and has been a member since then.

Procedural Requirements Have Been Satisfied

On November 20, 2012, the State Bar properly filed and served an NDC 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 NDC was not returned to the State Bar as undeliverable or for any other reason.

In addition, respondent had actual notice of this proceeding. In December 2012 and January 2013, the State Bar made numerous attempts to contact respondent. These attempts included trying to reach respondent through her official membership records address, telephone, and email; calling and leaving a message at an alternative telephone number provided by the Office of Probation of the State Bar of California (Office of Probation); and sending a letter to respondent's updated official membership records address.³

On January 28, 2013, respondent called the State Bar and requested a copy of the NDC. A copy of the NDC was mailed to respondent at her updated official membership records address shortly thereafter. On February 6, 2013, respondent again called the State Bar. She confirmed receipt of the NDC and was reminded that she needed to file a response to the NDC. On February 12, 2013, the State Bar received a letter from respondent asking for additional time to

³ Respondent updated her official membership records address on January 11, 2013. She again updated her official membership records address on February 5, 2013.

comply with the terms of her disciplinary probation. Respondent, however, did not provide the State Bar with a response to the NDC.

Respondent failed to file a response to the NDC. On February 13, 2013, the State Bar filed and properly served 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 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 March 4, 2013. 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 September 9, 2013, 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) respondent has no other disciplinary matters pending; (3) respondent has one 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 October 8, 2013.

Respondent has been disciplined on one prior occasion. Pursuant to a Supreme Court order filed on July 27, 2011, respondent was suspended for two years, the execution of which was stayed, and she was placed on probation for three years, including a one-year period of

suspension. In this matter, respondent stipulated to eight counts of misconduct stemming from three client matters, including writing personal checks from her client trust account (two counts), failing to deposit and maintain client funds in her client trust account (three counts), failing to promptly pay out client funds, failing to promptly return a client file, and misappropriating \$4,997 in client funds.

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).)

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Count One – respondent willfully violated Business and Professions Code section 6068, subdivision (k) (failure to comply with conditions of probation) by failing to submit three quarterly reports, failing to timely submit two other quarterly reports, and failing to provide the Office of Probation with satisfactory proof that she attended a session of Ethics School and Client Trust Accounting School.

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 the proceedings prior to the entry of her default, as she was properly served with a copy of the NDC; received a courtesy copy of the NDC; advised

the State Bar that she wanted more time to comply with her disciplinary probation; and was reminded by the State Bar that she needed to file a response to 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.

RECOMMENDATIONS

Disbarment

The court recommends that respondent Toni Lorilee Christiani 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 Toni Lorilee Christiani, State Bar number 202884, 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: October _____, 2013

RICHARD A. HONN
Judge of the State Bar Court