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STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – LOS ANGELES

In the Matter of)	Case No.: 13-C-16592-LMA
)	
FRANK E. MILLER)	ORDER GRANTING MOTION TO SET
)	ASIDE DEFAULT
Member No. 162270)	
)	
A Member of the State Bar.)	

On November 25, 2014, respondent Frank E. Miller, by counsel Michael E. Wine, filed a motion to set aside the default entered on May 8, 2014 in the captioned matter on the grounds of excusable neglect. (Rule 5.83(C), Rules Proc. of State Bar.) On December 1, 2014, he filed a supplemental memorandum of points and authorities. On December 4, 2014, the Office of the Chief Trial Counsel (State Bar), by R. Kevin Bucher, filed opposition thereto.

It is the policy of the court to favor, whenever possible, disposition on the merits. (*In the Matter of Navarro* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 192, 198.) It appears to the court that respondent's failure to file a response was a result of respondent's mistake, inadvertence, surprise, or excusable neglect, within the meaning of Code of Civil Procedure section 473(b). (Rules Proc. of State Bar, rule 5.83(C).) Further, the particular circumstances in this matter, including respondent's homelessness; the strict communication rules of the homelessness recovery program in which he has been participating; and misunderstanding regarding the timelines to set aside defaults in the present rather than the former Rules of



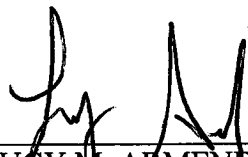
Procedure, among other things, demonstrate by clear and convincing evidence compelling circumstances beyond respondent's control that excuse his timely responding to the charges and to the motion to enter default. There is no prejudice in trying this case on its merits.

Having considered the parties' contentions and good cause appearing, the motion is GRANTED and the default entered on May 8, 2014 is VACATED. Accordingly, IT IS FURTHER ORDERED that:

1. the proposed response filed with the motion is deemed filed and served as of the date this order is filed;
2. Respondent's inactive enrollment, pursuant to Business and Professions Code section 6007, subdivision (e), is terminated upon the filing of this order;
3. The disbarment petition filed on November 17, 2014, is moot; and
4. The parties must appear at a telephonic status conference set for January 5, 2015, at 10:30 a.m.

IT IS SO ORDERED.

Dated: December 16, 2014



LUCY M. ARMENDARIZ
Judge of the State Bar Court

CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); 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 December 16, 2014, I deposited a true copy of the following document(s):

ORDER GRANTING MOTION TO SET ASIDE DEFAULT

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:

MICHAEL E. WINE
80 W SIERRA MADRE BLVD # 355
SIERRA MADRE, CA 91024

- ☒ by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

RONALD K. BUCHER, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on December 16, 2014.



Bernadette C.O. Molina
Case Administrator
State Bar Court