

STATE BAR COURT OF CALIFORNIA  
HEARING DEPARTMENT – LOS ANGELES

In the Matter of	)	Case No.: 13-N-16065-LMA
	)	
<b>MELISSA SOYOUNG LEE,</b>	)	<b>DECISION AND ORDER OF</b>
	)	<b>INVOLUNTARY INACTIVE</b>
<b>Member No. 195720</b>	)	<b>ENROLLMENT</b>
	)	
<u>A Member of the State Bar.</u>	)	

Respondent Melissa Soyoung Lee (respondent) was charged with failing to comply with California Rules of Court, rule 9.20(c). She did not file a response to the notice of disciplinary charges (NDC), 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 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 June 2, 1998, and has been a member since then.

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

On December 13, 2013, the State Bar filed and properly served the 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.)

Respondent had actual notice of these proceedings, as she discussed this matter over the telephone with a State Bar investigator on December 17, 2013. Respondent thereafter failed to file a response to the NDC. On January 15, 2014, 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 State Bar deputy trial counsel declaring the additional steps taken to provide notice to respondent.<sup>3</sup> (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 31, 2014. The order entering the default was served on respondent at her membership records address by certified mail, return receipt requested. The

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<sup>3</sup> In addition to the State Bar investigator's conversation with respondent, the State Bar made several other attempts to contact her, including mailing a courtesy copy of the NDC to respondent at her official membership records address, contacting respondent's disciplinary probation deputy to check for alternative contact information, calling and leaving a message at respondent's official membership records telephone number, and calling directory assistance to check for alternative telephone listings for respondent.

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 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 11, 2014, 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 last had contact with respondent on March 4, 2014; (2) there is one other disciplinary investigation matter pending against respondent; (3) respondent has a prior record of discipline; and (4) the Client Security Fund (CSF) has not paid out any claims 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 7, 2014.

Respondent has been disciplined on two prior occasions.<sup>4</sup> Pursuant to a Supreme Court order filed on May 19, 2011, respondent was suspended for two years, the execution of which was stayed, and she was placed on probation for two years subject to conditions including her suspension from the practice of law for 60 days. The misconduct involved four client matters. Respondent stipulated to failing to perform legal services with competence (four counts) and failing to inform her clients of significant developments (four counts).

Pursuant to a Supreme Court order filed on June 10, 2013, respondent's probation was revoked and she was suspended for a minimum of two years and until she provides proof to the State Bar Court of her rehabilitation, fitness to practice, and learning and ability in the general law. In this matter, respondent was found culpable of failing to comply with the terms of her disciplinary probation. Respondent did not participate in the proceedings.

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<sup>4</sup> The court takes judicial notice of the pertinent State Bar Court records regarding respondent's prior discipline, admits them into evidence, and directs the Clerk to include copies in the record of this case.

### **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, subd. (E)(1)(d).)

#### **Case Number 13-N-16065 (Rule 9.20 Matter)**

Count One – respondent violated California Rules of Court, rule 9.20 (duties of disbarred, resigned, or suspended attorneys) by failing to file proof of compliance as required by rule 9.20(c) as ordered by the Supreme Court in its June 10, 2013 Order.

#### **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 the proceedings prior to the entry of her default, as she discussed this matter with the State Bar investigator on December 17, 2013;
- (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 her disbarment.

## **RECOMMENDATION**

### **Disbarment**

The court recommends that respondent Melissa Soyoung Lee be disbarred from the practice of law in the State of California and that her name be stricken from the roll of attorneys.

### **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 Melissa Soyoung Lee, State Bar number 195720, 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. (Rules Proc. of State Bar, rule 5.111(D).)

Dated: November \_\_\_\_, 2014

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LUCY ARMENDARIZ  
Judge of the State Bar Court