

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – LOS ANGELES

In the Matter of) Case No.: 13-N-16761-YDR
)
LAUREN ELICIA WOMACK,) DECISION AND ORDER OF
) INVOLUNTARY INACTIVE
Member No. 259520,) ENROLLMENT
)
)
A Member of the State Bar.)

INTRODUCTON¹

In this rule 9.20 proceeding, respondent Lauren Elicia Womack was charged with willfully violating California Rules of Court, rule 9.20 by failing to file a declaration of compliance with that rule in conformity with the requirements of rule 9.20(c) as required by an order of the Supreme Court and with willfully violating Business and Professions Code section 6068, subdivision (k) by failing to comply with the conditions of her disciplinary probation.

Respondent failed to participate either in person or through counsel, and her default was entered. Thereafter, 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.²

¹ This proceeding was originally assigned to State Bar Court Judge Richard A. Platel. Effective November 6, 2014, however, this proceeding was reassigned to the undersigned State Bar Court Judge for all purposes.

² Unless otherwise indicated, all references to rules or Rules of Procedure of the State Bar are to the Rules of Procedure of the State Bar that were in effect from January 1, 2011, through June 30, 2014. A number of the rules of procedure, including the rules governing defaults, were

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 if 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.³

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 2, 2008, and has been a member of the State Bar of California since that time.

Procedural Requirements Have Been Satisfied

On April 18, 2014, the State Bar filed and properly served the NDC on respondent at her membership-records address by certified mail, return receipt requested. The NDC notified respondent that her failure to participate in the proceeding would result in a disbarment recommendation. (Rule 5.41.) The State Bar never received a return receipt for the NDC served on respondent.

Thereafter, on May 13, 2014, the assigned Deputy Trial Counsel (DTC) attempted to reach respondent by telephone at her membership-records telephone number and at a private telephone number respondent previously provided to the State Bar and left a message for respondent asking that she call the DTC back to discuss her failure to file a response to the NDC.

amended effective July 1, 2014. Nonetheless, because respondent's default was entered before July 1, 2014, the operative rules in this matter are those that were in effect before July 1, 2014.

³ If the court determines that any due process requirements is 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).)

On May 16, 2014, a courtesy copy of the NDC was sent to respondent at her membership-records address by first-class mail. That courtesy copy of the NDC was not returned to the State Bar. Also, on May 16, 2014, the DTC sent an email to respondent at her membership-records email address⁴ informing respondent that the State Bar intended to seek the entry of her default if she did not file a response to the NDC by May 23, 2014. The email message did not “bounce back.”

Respondent failed to file a response to the NDC. On May 28, 2014, the State Bar filed and properly served a motion for entry of default on respondent at her membership-records address by certified mail, return receipt requested. The motion complied with all the requirements for a default, including a supporting declaration of reasonable diligence by the DTC 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 June 18, 2014. The order entering respondent’s default was properly served on respondent at her membership-records address by certified mail, return receipt requested.⁵ The order notified respondent that, if she did not timely move to set aside her default, the court would recommend her disbarment. The court also ordered that respondent be involuntarily enrolled as an inactive member of the State Bar of California in accordance with Business and Professions Code section 6007, subdivision (e). Respondent’s inactive enrollment under that order became effective three days after the order was served and has continued since that time.

⁴ As of February 1, 2010, all attorneys are required to maintain with the State Bar a current email address to facilitate communications with the State Bar. (Cal. Rules of Court, rule 9.7(a)(2).)

⁵ The United States Postal Service returned the order to the State Bar Court marked “Return to Sender [¶] Unclaimed [¶] Unable to Forward.”

Respondent did not seek to have her default vacated or set aside. (Rule 5.83(B); rule 5.83(C)(1) [attorney has 180 days to file motion to set aside default].) On December 23, 2014, the State Bar filed and properly served the petition for disbarment on respondent at her membership-records address by certified mail, return receipt requested. As required by rule 5.85(A), the State Bar reported in the petition that (1) the State Bar has not had any contact with respondent since the date the order entering her default was served;⁶ (2) there is one disciplinary investigation matter pending against respondent; (3) respondent has one prior record discipline; and (4) the Client Security Fund has made three payments totaling \$8,350 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 January 28, 2015.

Respondent has a prior record of discipline. On July 17, 2013, the Supreme Court filed an order in case number S210626 (State Bar Court case number 11-O-19119, etc.) (1) placing respondent on two years' stayed suspension and two years' probation on conditions, including a ninety-day suspension, and (2) ordering respondent to comply with California Rules of Court, rule 9.20.

In her prior matter, respondent and the State Bar entered into a stipulation regarding facts, conclusions of law, and disposition, which was approved by the State Bar Court. In that stipulation, respondent stipulated to being culpable on a total of seven counts of misconduct involving three separate client matters. Specifically, respondent stipulated to (1) two counts of failing to give a client seeking home-mortgage-loan-modification services a separate written consumer notice that it is not required to pay a third party to negotiate a loan modification or forbearance agreement (Civ. Code, § § 2944.6); (2) two counts of collecting fees for home-mortgage-loan-modification services before all the loan-modification (or loan forbearance)

⁶ This is the same date that respondent's default was entered. (See rule 5.85(A)(1).)

services were completed (Civ. Code, § 2944.7); (3) one count of failing to perform legal services with competence; (4) one count of engaging in the unauthorized practice of law in the Commonwealth of Massachusetts; and (5) one count of charging and collecting an illegal fee for the legal services performed in violation of Massachusetts's regulations of the legal profession.

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(F)(1)(d).)

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Count One -- respondent willfully violated California Rules of Court, rule 9.20 (duties of disbarred, resigned or suspended attorneys), by not filing a rule 9.20(c) compliance declaration with the Clerk of the State Bar Court no later than September 25, 2013, in accordance with the Supreme Court's July 17, 2013, order in case number S210626 (State Bar Court case number 11-O-19119, etc.).

Count Two – charges respondent with willfully violating Business and Professions Code section 6068, subdivision (k) by failing to comply with conditions of the disciplinary probation imposed on her in prior record of discipline.

As noted *ante*, the present proceeding is a rule 9.20 proceeding (i.e., an “N” case). As such, this proceeding is governed by Title 5, Division 6 of the Rules of Procedure of the State Bar (rule 5.330 et seq.). Moreover, a rule 9.20 proceeding is an expedited and limited Special Proceeding (rule 5.337) “in which the member is charged with failing to comply with rule 9.20 of the California Rules of Court as ordered by the Supreme Court” (rule 5.330). Accordingly, it

is improper to charge an attorney with violating section 6068, subdivision (k) in a rule 9.20 proceeding. A violation of section 6068, subdivision (k) is properly charged only in an original disciplinary proceeding (an “O” case) under Title 5, Division 2 of the Rules of Procedure of the State Bar (rule 5.20 et seq.).

Count Two is DISMISSED without prejudice because it fails to charge respondent with failing to comply with rule 9.20 as ordered by the Supreme Court as required by, inter alia, rule 5.330.

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) reasonable diligence was used to notify respondent of the proceedings prior to the entry of her default, as (a) the State Bar filed and properly served the NDC on respondent at her membership-records address by certified mail, return receipt requested; (b) a courtesy copy of the NDC was sent to respondent at her membership-records address by first-class mail; and (c) the DTC attempted to reach respondent by telephone and email;
- (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 adequate 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 Lauren Elicia Womack, State Bar number 259520, 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 again 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 and that the costs be 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 Lauren Elicia Womack, State Bar number 259520, be involuntarily enrolled as an inactive member of the State Bar of California, effective three calendar days after service of this decision and order by mail. (Rule 5.111(D).)

Dated: April 14, 2015.

YVETTE D. ROLAND
Judge of the State Bar Court