

STATE BAR COURT OF CALIFORNIA  
HEARING DEPARTMENT – LOS ANGELES

In the Matter of	)	Case No.: <b>13-O-11956-RAP</b>
	)	
<b>KARLA C. SHIPPEY,</b>	)	<b>DECISION AND ORDER OF</b>
	)	<b>INVOLUNTARY INACTIVE</b>
<b>Member No. 113107,</b>	)	<b>ENROLLMENT</b>
	)	
<u>A Member of the State Bar.</u>	)	

Respondent Karla C. Shippey (respondent) was charged with failing to comply with all conditions attached to her disciplinary probation. 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 June 13, 1984, and has been a member since then.

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

On May 14, 2013, the State Bar filed and properly served the NDC in this matter on respondent by certified mail, return receipt requested, to 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 for the NDC was returned to the State Bar signed by M. A. Shippey, reflecting that M. A. Shippey had received the NDC delivered on May 16, 2013.

Respondent had actual notice of this disciplinary proceeding. On June 13, 2013, Deputy Trial Counsel Sue K. Hong (DTC Hong) emailed respondent at her official membership records email address,<sup>3</sup> with notice of her intention to file a motion for entry of respondent's default if DTC Hong did not receive respondent's response by a specific date in June. That same date, respondent replied by email to DTC Hong stating, in pertinent part, that she had never received the Notice referenced by DTC Hong; that respondent no longer resides in California; that she is not returning to California; that she tried to resign but without success;<sup>4</sup> that she has no money to fight the charges; and "[t]he Bar may do whatever it wants." DTC Hong replied on June 13,

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<sup>3</sup> Effective February 1, 2010, all attorneys are required to maintain a current email address to facilitate communications with the State Bar. (Cal. Rules of Court, rule 9.7(a)(2).)

<sup>4</sup> The court takes judicial notice of its records which do not reflect that respondent tendered her resignation to the court.

2013, via email to respondent, attaching a scanned pdf copy of the NDC. DTC Hong received from respondent confirmation that respondent would not be appearing at the initial status conference scheduled for the afternoon of June 13, 2013.

Respondent failed to file a response to the NDC. On July 2, 2013, the State Bar filed and properly served a motion for entry of default on respondent by certified mail, return receipt requested, to her membership records address. 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 (rule 5.80.), and reflecting that respondent had actual notice of this proceeding. 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 July 29, 2013. The order entering the default was served on respondent at her membership records address by certified mail, return receipt requested.<sup>5</sup> 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. 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 February 6, 2014, the State Bar filed and 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) it has had no contact with respondent since the order entering respondent's

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<sup>5</sup> The order served on July 29, 2013, was returned to the State Bar Court by the United States Postal Service as unclaimed.

default was served;<sup>6</sup> (2) there are other investigation(s) or disciplinary charge(s) pending against respondent; (3) respondent has a record of prior discipline; and (4) the Client Security Fund has paid out claims resulting from respondent's misconduct. 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 March 7, 2014.

Respondent has a record of prior discipline.<sup>7</sup> Pursuant to a Supreme Court order filed on June 28, 2011, respondent was suspended for one year, the execution of which was stayed, and she was placed on probation for two years subject to conditions, including that she be suspended for the first six months of probation. Respondent participated in this prior discipline matter. Respondent stipulated that she recklessly, repeatedly or intentionally failed to perform legal services with competence in four matters and willfully violated rule 3-700(D)(2) of the Rules of Professional Conduct in three matters.

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

### **Case Number 13-O-11956 (Probation Violation Matter)**

Respondent willfully violated Business and Professions Code section 6068, subdivision (k) (duty to comply with probation conditions) by failing to comply with all conditions

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<sup>6</sup> This is the same date that the default was entered. Thus, the State Bar has had no contact with respondent since respondent's default was entered.

<sup>7</sup> The court admits into evidence the certified copy of respondent's prior record of discipline that is attached to the State Bar's February 6, 2014, petition for disbarment.

(specifically, quarterly reports, Ethics School and Client Trust Accounting School) attached to the disciplinary probation ordered by the Supreme Court in its Order filed on June 28, 2011.<sup>8</sup>

### **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 respondent replied to an email from DTC Hong that set forth notice of DTC Hong's intention to file a motion for entry of respondent's default if DTC Hong did not receive respondent's response, and respondent also confirmed by email to DTC Hong that respondent would not be appearing at the initial status conference;
- (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 Karla C. Shippey be disbarred from the practice of law in the State of California and that her name be stricken from the roll of attorneys.

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<sup>8</sup> The June 28, 2011, Supreme Court Order ordered respondent to comply with conditions of probation recommended by the State Bar Court Hearing Department in its Order Approving Stipulation filed on April 21, 2011. However, the court notes that the Order Approving Stipulation was actually filed on March 10, 2011.

**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 Karla C. Shippey, State Bar number 113107, 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: April 2, 2014

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RICHARD A. PLATEL  
Judge of the State Bar Court