

FILED

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STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

PUBLIC MATTER

STATE BAR COURT OF CALIFORNIA HEARING DEPARTMENT – LOS ANGELES

In the Matter of)	Case No.: 14-H-03845-DFM
)	
TINA MARIE SOBOTTA,)	DECISION AND ORDER OF
)	INVOLUNTARY INACTIVE
Member No. 216590,)	ENROLLMENT
)	
<u>A Member of the State Bar.</u>)	

Respondent Tina Marie Sobotta (Respondent) was charged with failing to comply with conditions attached to a public reproof in willful violation of rule 1-110 of the Rules of Professional Conduct. 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.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 90 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(F)(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

Jurisdiction

Respondent was admitted to practice law in this state on December 4, 2001, and has been a member since then.

Procedural Requirements Have Been Satisfied

On September 17, 2014, the State Bar filed and properly served the NDC on Respondent by certified mail, return receipt requested, at her membership records address.³ The NDC notified Respondent that her failure to participate in the proceeding would result in a disbarment recommendation. (Rule 5.41.)

Thereafter, the State Bar (1) sent a letter dated October 20, 2014, enclosing a copy of the NDC, to Respondent by first-class mail, postage prepaid, at her membership records address; (2) sent an email to Respondent's membership records email address, attaching a copy of the October 20, 2014 letter and the NDC;⁴ (3) attempted to reach Respondent by telephone at her membership records telephone number; (4) sent an email to Respondent's private email address with a copy of the earlier email, the October 20, 2014 letter, and the NDC; (5) sent an email to Respondent's assigned probation deputy to ascertain whether the Office of Probation had an alternate telephone number or address for Respondent; (6) had a paralegal conduct a computer person locator search for Respondent's home address, home and cellular telephone numbers, and

³ According to the declaration of Deputy Trial Counsel Sherell N. McFarlane, accompanying the State Bar's disbarment petition, the NDC was not returned as undeliverable, although the return receipt was not received by the State Bar.

⁴ 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).)

any other alternate email address; and (7) sent a letter, with a copy of the October 20, 2014 letter and the NDC, by first-class mail, postage prepaid, to a possible home address for Respondent revealed by the paralegal's computer person locator search.

Despite these efforts, Respondent failed to file a response to the NDC. On November 6, 2014, the State Bar filed and properly served a motion for entry of Respondent's default on Respondent at 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.) The motion also notified Respondent that, if she did not timely move to set aside her default, the court would recommend her disbarment. Respondent still did not file a response to the motion, and her default was entered on November 25, 2014. The order entering the default was served on Respondent at her membership records address by certified mail, return receipt requested, and by first-class mail, postage fully prepaid. 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 90 days to file motion to set aside default].) On March 13, 2015, the State Bar filed the petition for disbarment. As required by rule 5.85(A), the State Bar reported in the petition that: (1) Respondent contacted State Bar Deputy Trial Counsel Sherell N. McFarlane (DTC McFarlane) by telephone on January 8, 2015, after Respondent was served with the motion for the entry of her default which included a copy of the NDC. During DTC McFarlane's telephone conversation with Respondent, DTC McFarlane apprised Respondent of the nature and status of the matter proceeding against her and informed her that, as her default had been entered, the

State Bar would file a petition for disbarment unless Respondent served the State Bar with a motion to vacate or set aside the default within the period set forth in rule 5.83; (2) there are no investigations or other disciplinary charges pending against Respondent; (3) Respondent has a 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 April 7, 2015.

Prior Record of Discipline

Respondent has a prior record of discipline.⁵ On December 4, 2013, the State Bar Court filed an order imposing a public reproof on Respondent with conditions attached to the reproof for one year. Respondent stipulated in that matter that she was convicted on October 18, 2012, of violating (1) Penal Code section 415(2) [disturbing the peace], a misdemeanor, as a result of an incident that occurred on August 21, 2012; (2) Penal Code section 602(k) [trespass], a misdemeanor, as a result of an incident that occurred on August 26, 2012; and (3) Penal Code section 415(2) [disturbing the peace], a misdemeanor, as a result of conduct that occurred on September 21, 2012.

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(F)(1)(d).)

⁵ The court admits into evidence the certified copies of Respondent's prior record of discipline attached to the March 13, 2015 petition for disbarment.

Case No. 14-H-03845 (Reproval Conditions Matter)

Count One – Respondent willfully violated rule 1-110 of the Rules of Professional Conduct by failing to comply, as charged, with conditions attached to a public reproval administered by the State Bar.

Disbarment is Recommended

Based on the above, the court concludes that the requirements of rule 5.85(F) 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;⁶
- (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 and 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 **Tina Marie Sobotta**, State Bar number 216590, be disbarred from the practice of law in the State of California and that her name be stricken from the roll of attorneys.

⁶ As discussed above, at some point after the State Bar served Respondent with the motion for the entry of her default, which included a copy of the NDC, Respondent had actual notice of this proceeding as she telephoned DTC McFarlane on January 8, 2015.

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 **Tina Marie Sobotta**, State Bar number 216590, 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: June 23, 2015


DONALD F. MILES
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 Los Angeles, on June 25, 2015, I deposited a true copy of the following document(s):

DECISION AND ORDER OF INVOLUNTARY INACTIVE ENROLLMENT

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 Los Angeles, California, addressed as follows:

**TINA M. SOBOTTA
4221 TAOS DR
SAN DIEGO, CA 92117**

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

SHERELL McFARLANE, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on June 25, 2015.



Tammy Cleaver
Case Administrator
State Bar Court