

STATE BAR COURT OF CALIFORNIA  
HEARING DEPARTMENT-SAN FRANCISCO

In the Matter of	)	Case Nos.: <b>14-N-01148-PEM</b>
	)	
<b>VERNA JEAN ROSS,</b>	)	
	)	
<b>Member No. 165744,</b>	)	<b>DECISION AND ORDER OF</b>
	)	<b>INVOLUNTARY INACTIVE</b>
<u>A Member of the State Bar.</u>	)	<b>ENROLLMENT</b>

Respondent Verna Jean Ross was charged with not complying 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 90 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 the Rules of Procedure of the State Bar which were in effect on July 1, 2014, as respondent's default was entered after that date.

<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 September 13, 1993, and has been a member of the State Bar of California since.

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

On May 12, 2014, the State Bar filed and properly served the NDC on respondent by certified mail, return receipt requested to her membership records address (official address). The NDC notified respondent that her failure to participate in the proceeding would result in a disbarment recommendation. (Rule 5.41.)

Respondent did not file a response to the NDC by June 6, 2014. However, on July 1, 2014, the State Bar made efforts to locate and contact respondent, including (1) calling her official State Bar membership records telephone number (official telephone number) and leaving a message and an alternate number where it was not possible to leave a message; (2) calling the Office of Probation of the State Bar to obtain other contact information for respondent but there was no other information than what the State Bar already had; (3) sending an email to respondent's State Bar membership records email address (official email address), which was not returned as undeliverable and to which there was no response; and (4) unsuccessfully searching for respondent using several computer data bases.

On July 3, 2014, the State Bar filed and properly served on respondent a motion for entry of her default by certified mail, return receipt requested to respondent's official address. The motion complied with the requirements for a default, including a supporting declaration of reasonable diligence regarding 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 July 21, 2014. The order entering the default was served on respondent at her membership records address by certified mail, return receipt requested. 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. The return receipt shows delivery of this order on July 23, 2014, to respondent's official address and was executed by a person other than respondent.

Respondent 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 November 10, 2014, respectively, the State Bar filed and properly served a petition for disbarment on respondent 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 contact with respondent since the default was entered; (2) there are no disciplinary investigations pending against respondent; (3) respondent has two prior records of discipline; and (4) the Client Security Fund (CSF) has not made any payments resulting from respondent's conduct as set forth in the NDC. 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 December 8, 2014.

Respondent has two prior records of discipline.

Pursuant to an order of the State Bar Court filed on September 8, 2009, respondent was publicly reprovved . Respondent was found culpable of violating rules 3-110(A) (not performing legal services with competence), 3-700(A)(2) (abandonment), and 3-700(D)(1) (not returning client papers or property) of the State Bar Rules of Professional Conduct and Business and

Professions Code sections 6103 (violating a court order) and 6068, subdivisions (m) and (j) (not communicating with a client and not updating her membership records address, respectively).<sup>3</sup>

Pursuant to a Supreme Court order filed on September 11, 2013, respondent was suspended for two years, the execution of which was stayed, and she was placed on probation for two years, on condition that she be suspended for one year. Respondent was found culpable of violating rule 3-110(A) (not performing legal services with competence) of the State Bar Rules of Professional Conduct and sections 6106 (moral turpitude) and 6068, subdivisions (i) and (j) (not cooperating in a disciplinary investigation and not updating her membership records address, respectively).

### **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 of the rule and statutory violations as charged and, therefore, violated a statute, rule or court order that would warrant the imposition of discipline. (Rule 5.85(E)(1)(d).)

#### **1. Case Number 14-N-01148 (Rule 9.20 Matter)**

Count One – respondent violated California Rule of Court, rule 9.20(c) (duties of disbarred, resigned or suspended attorneys) by failing to file proof of compliance with the rule as ordered by the Supreme Court in S211717.<sup>4</sup>

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<sup>3</sup> Unless otherwise indicated, all further references to section(s) refer to provisions of the Business and Professions Code.

<sup>4</sup> The court judicially notices its records that a rule 9.20 affidavit was untimely filed on April 23, 2014.

## **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 locate and notify respondent of the proceedings prior to the entry of her default, including: (a) calling her official telephone number and leaving a message and an alternate number where it was not possible to leave a message; (b) calling the Office of Probation of the State Bar to obtain other contact information for respondent but there was no other information than what the State Bar already had; (c) sending an email to respondent's official email address, which was not returned as undeliverable and to which there was no response; and (d) unsuccessfully searching for respondent using several computer data bases;
- (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.

## **RECOMMENDATION**

### **Disbarment**

The court recommends that respondent Verna Jean Ross 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 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 Verna Jean Ross, State Bar number 165744, 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: February \_\_\_\_\_, 2015

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PAT McELROY  
Judge of the State Bar Court