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OCT 28 2015 *JP*

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-O-05587
)	
ERIKA JORDENING,)	DECISION AND ORDER OF
)	INVOLUNTARY INACTIVE
Member No. 184986,)	ENROLLMENT
)	
<u>A Member of the State Bar.</u>)	

Respondent **Erika Jordening** (“Respondent”) was charged with violating Business and Professions Code section 6103 by willfully disobeying or violating a court order requiring compliance with California Rules of Court, rule 9.20. She 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.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



¹ Unless otherwise indicated, all references to rule(s) are to this source.

("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

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 3, 1996, and has been a member since that date.

Procedural Requirements Have Been Satisfied

On January 27, 2015, 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) On the same date, the State Bar sent Respondent a copy of the NDC to her membership records address by regular first-class mail,³ and emailed another copy to her membership records email address.⁴ On February 2, 2015, the State Bar received the return card from the NDC sent by certified mail. It was signed by Nancy Parise.

Thereafter, on February 10, 2015, the State Bar's deputy trial counsel ("DTC") attempted to reach Respondent by telephone. The DTC called Respondent at her membership records

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).)

³ The NDC was not returned as undeliverable.

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).)

private telephone number, her most recent membership records public telephone number, and a former membership records public telephone number. The DTC left voicemail messages at Respondent's membership records private telephone number and at her most recent membership records public telephone number, but was unable to leave a message on her former membership records public telephone number. The DTC also emailed another copy of the NDC to Respondent at her membership records email address.

Respondent had actual notice of this proceeding. On March 17, 2015, the DTC called Respondent at her membership records private telephone number. After Respondent answered the call, the DTC informed Respondent that the State Bar had filed a NDC, the time for her to file a response had expired and, the State Bar intended to file a motion for entry of default. Respondent indicated she had a "stack of mail" from the State Bar that she needed to review and would call the DTC back. Later that day, the DTC called Respondent and Respondent requested more time to review her mail. The DTC told Respondent that he would refrain from filing a motion for entry of default until March 18, 2015.

On March 19, 2015, Respondent called the DTC and informed him that she was still reviewing her mail from the State Bar. During their conversation, Respondent confirmed the mailing address listed on her membership records was correct. The DTC agreed he would not file a motion for entry of default until March 23, 2015. Respondent did not file a response to the NDC so on March 24, 2015, the DTC called Respondent at her membership records private telephone number and left her a voicemail message.

On March 27, 2015, the DTC called Respondent at her membership records private telephone number and spoke to Respondent. During the conversation, Respondent indicated she had located some of her records regarding this matter, but she needed more time to review additional documents in storage. Respondent indicated that she was considering filing a

response to the NDC after she reviewed those records. The DTC informed her that the State Bar would not file a motion for entry of default until March 30, 2015, but she would be given no further extensions of time. On March 30, 2015, Respondent called the DTC and requested additional time to file her response. The DTC advised Respondent that the State Bar would afford no more extensions of time and it intended to file a motion for entry of default. Respondent indicated that she understood.

Respondent failed to file a response to the NDC. On March 30, 2015, the State Bar filed and properly served a motion for entry of Respondent's 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 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 did not file a response to the motion, and her default was entered on April 17, 2015. 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, 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 90 days to file motion to set aside default].)

On July 24, 2015, the State Bar properly filed and served the petition for disbarment on Respondent at her official membership records address. As required by rule 5.85(A), the State Bar reported in the petition that: (1) there has been no contact with Respondent since her default

was entered; (2) Respondent has three other disciplinary matters pending against her, one is abated and she has defaulted on the other two; (3) Respondent has one prior disciplinary record; and (4) the Client Security Fund has not paid any claims as a result of Respondent's misconduct.

Prior Record of Discipline

Respondent has one prior record of discipline.⁵ Pursuant to a State Bar Court order filed on January 16, 2004, Respondent was publicly reprovved with conditions for one year.

Respondent stipulated that she intentionally and recklessly failed to perform legal services with competence in one matter, which prevented her client from remarrying because the client's divorce was not finalized.

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))

Case No. 14-O-05587 (Violation of Court Order)

Respondent willfully violated Business and Professions Code section 6103 [duty to obey court order] by failing to file a declaration of compliance with rule 9.20 in conformity with the requirements of rule 9.20(c), thereby violating the Review Department's May 29, 2014 order requiring compliance with California Rules of Court, rule 9.20.

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:

⁵ The court admits into evidence the certified copies of Respondent's prior records of discipline attached to the July 24, 2015 petition for disbarment.

(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 and she had actual notice of these proceedings;

(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 **Erika Jordening**, State Bar number 184986, 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.

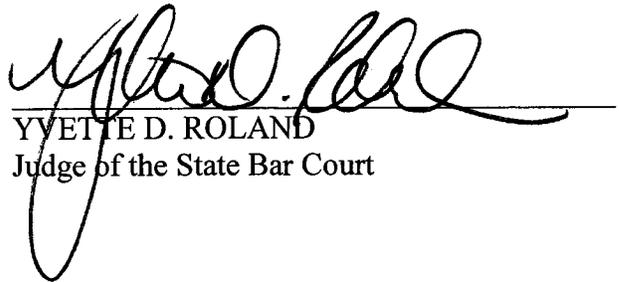
Costs

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 **Erika Jordening**, State Bar number 184986, 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: October 27, 2015


YVETTE D. ROLAND
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 October 28, 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:

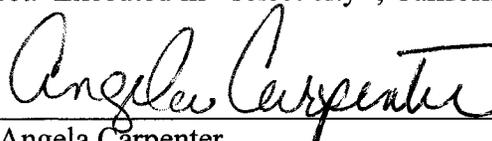
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

ERIKA JORDENING
4707 POLO VIEW DR
BAKERSFIELD, CA 93312

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

Shane C. Morrison, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in <select city>, California, on October 28, 2015.



Angela Carpenter
Case Administrator
State Bar Court