

PUBLIC MATTER

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STATE BAR COURT CLERK'S OFFICE
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STATE BAR COURT OF CALIFORNIA

HEARING DEPARTMENT - SAN FRANCISCO

In the Matter of)	Case No. 17-N-01887-PEM
)	
SARAH HEMBROW,)	DECISION AND ORDER OF
)	INVOLUNTARY INACTIVE
A Member of the State Bar, No. 175303.)	ENROLLMENT
_____)	

Respondent Sarah Hembrow (respondent) was charged with willfully violating California Rules of Court, rule 9.20. She failed to file a response to the Notice of Disciplinary Charges (NDC) in this matter, and her default was entered. The Office of Chief Trial Counsel of the State Bar of California (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 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

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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

Respondent was admitted to practice law in this state on December 20, 1994, and has been a member since then.

Procedural Requirements Have Been Satisfied

On May 1, 2017, the State Bar filed and properly served the NDC in this matter on respondent by both certified mail, return receipt requested, and U.S. first-class mail 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.)

Thereafter, the State Bar received an email from respondent on May 6, 2017, indicating that she did not wish to fight this proceeding. The State Bar received another email from respondent on May 13, 2017, stating that she intended to default in this matter.

Respondent failed to file a response to the NDC. On May 26, 2017, 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 senior trial counsel declaring the additional steps taken to provide notice to respondent (rule 5.80). The motion 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 13, 2017. 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. 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 October 5, 2017, 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) it has not had any contact with respondent since her default was entered; (2) there are no other disciplinary matters pending against respondent; (3) respondent has a record of prior discipline; and (4) the Client Security Fund has not paid out any claims as a result of 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 November 7, 2017.³

Prior Record

Respondent has one prior record of discipline. Pursuant to a Supreme Court order filed on December 20, 2016, respondent was suspended for two years, the execution of which was stayed, and she was placed on probation for two years with conditions, including that she be suspended for the first year of probation and until she makes specified restitution. Respondent entered into a stipulation as to facts, conclusions of law and disposition in this prior disciplinary matter. Respondent stipulated that she willfully violated rule 3-110(A) of the State Bar Rules of Professional Conduct and sections 6106 and 6068, subdivision (m), of the Business and Professions Code.

³ The State Bar failed to include an authenticated copy of respondent's prior record of discipline with its disbarment petition. Therefore, on October 6, 2017, the court filed an order requiring the State Bar to file an authenticated copy of respondent's prior record of discipline with the court within five days after service of the court's order. On October 11, 2017, the State Bar filed and served on respondent by U.S. first-class mail a response to the court's order, attaching a certified copy of respondent's prior record of discipline.

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.⁴ (Rule 5.85(F)(1)(d).)

Case Number 17-N-01887 (Rule 9.20 Compliance Matter)

Respondent willfully violated rule 9.20 of the California Rules of Court by failing to file a declaration of compliance with rule 9.20, in conformity with the requirements of rule 9.20(c), with the clerk of the State Bar Court by February 28, 2017, as required by Supreme Court order number S237854.

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 and respondent 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.

⁴ The court notes that the NDC contains a typographical error under Count One. The Supreme Court order in respondent's prior record was filed on December 20, 2016. Therefore, respondent was not required to file a declaration of compliance with rule 9.20 of the California Rules of Court by December 20, 2016. The declaration was due by February 28, 2017. Because respondent had actual and adequate notice of the charges in the NDC and indicated her intent to default, it is unnecessary to vacate default in this matter.

Despite actual and 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 Sarah Hembrow 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.

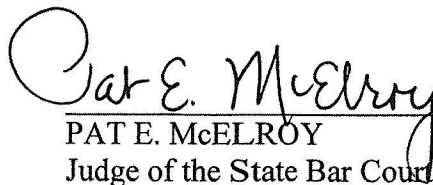
Costs

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 Sarah Hembrow, State Bar number 175303, 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: November 21, 2017


PAT E. McELROY
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 San Francisco, on November 21, 2017, 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 San Francisco, California, addressed as follows:
- SARAH HEMBROW
3338 CLAREMONT CT
APT 1
SANTA ROSA, CA 95405 - 7152
- ☐ by certified mail, No. , with return receipt requested, through the United States Postal Service at , California, addressed as follows:
- ☐ by overnight mail at , California, addressed as follows:
- ☐ By personal service by leaving the documents in a sealed envelope or package clearly labeled to identify the attorney being served with a receptionist or a person having charge of the attorney's office, addressed as follows:
- ☒ by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

Esther J. Rogers, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on November 21, 2017.


George Hue
Case Administrator
State Bar Court