

**FILED**

**APR 05 2018** *XC*

**STATE BAR COURT  
CLERK'S OFFICE  
LOS ANGELES**

# **PUBLIC MATTER**

**STATE BAR COURT OF CALIFORNIA**

**HEARING DEPARTMENT – LOS ANGELES**

In the Matter of	)	Case Nos. 17-O-00754-YDR
	)	
ELISA ANN CASTRO,	)	DECISION AND ORDER OF
	)	INVOLUNTARY INACTIVE
A Member of the State Bar, No. 171814.	)	ENROLLMENT
_____	)	

In this matter, respondent Elisa Ann Castro (Respondent) was charged with a single count of misconduct alleging her failure to comply with disciplinary probation conditions. Respondent failed to participate either in person or through counsel, 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.<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 90 days, the State Bar will file a petition requesting the court to recommend the attorney's disbarment.<sup>2</sup>



<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(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 September 7, 1994, and has been a member since then.

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

On September 11, 2017, the State Bar properly filed and served an 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.) The NDC was returned to the State Bar by the U.S. Postal Service as undeliverable.<sup>3</sup>

In addition, reasonable diligence was used to notify Respondent of this proceeding. The State Bar made several attempts to contact Respondent without success. These efforts included calling Respondent at her membership records telephone number, conducting a LexisNexis search for additional contact information, calling Respondent at a possible alternative telephone number identified in the LexisNexis search, mailing a letter to Respondent at her membership records address and at a possible alternative address identified in the LexisNexis search, and emailing a copy of that letter to Respondent at her membership records email address.<sup>4</sup>

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<sup>3</sup> In its default motion, the State Bar indicated that the NDC had not been returned. However, in its subsequent petition for Respondent's disbarment, the State Bar noted that the NDC was returned. Presumably, the NDC was returned to the State Bar at some point between the filing of the default motion and the filing of the petition for Respondent's disbarment.

<sup>4</sup> Prior to the filing of the NDC, Respondent left the State Bar a voicemail stating that she had closed her law office and had no intention of practicing law or answering the pending disciplinary charges.

Respondent did not appear at the initial status conference and failed to file a response to the NDC. On October 10, 2017, the State Bar filed and properly served a motion for entry of Respondent's default. The motion included a supporting declaration of reasonable diligence by the 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 November 2, 2017. The order entering 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 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 February 13, 2018, the State Bar filed the petition for disbarment. The State Bar reported in the petition that: (1) it has had no contact with Respondent since the default was entered; (2) Respondent has no other disciplinary matters pending; (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 March 19, 2018.

Respondent has been disciplined on two prior occasions. Pursuant to a Supreme Court order filed on August 8, 2016, in case No. S164141 (State Bar Court case Nos. 02-O-10521, et al.), Respondent was suspended for one year, the execution of which was stayed, and she was placed on probation for five years. In this matter, Respondent stipulated to eighteen counts of

misconduct in twelve matters, including improper withdrawal, failing to refund unearned fees (seven counts), failing to perform legal services with competence (six counts), failing to account (two counts), and failing to cooperate with disciplinary investigations (two counts).

Pursuant to a Supreme Court order filed on October 16, 2015, in case No. S227855 (State Bar Court case Nos. 14-O-02079, et al.), Respondent was suspended for two years, the execution of which was stayed, and she was placed on probation for two years, including a 90-day period of actual suspension. In this matter, Respondent stipulated to nine counts of misconduct in four matters, including failing to account (two counts), failing to perform legal services with competence, failing to communicate significant developments to her client, failing to refund unearned fees, and failing to cooperate with disciplinary investigations (four counts).

#### **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. 17-O-00754**

Count One – Respondent willfully violated Business and Professions Code section 6068, subdivision (k) (failure to comply with conditions of probation), by failing to: (1) submit three quarterly reports; (2) timely submit three additional quarterly reports; and (3) timely submit proof of attendance at a session of Ethics School and passage of the test given at the end of that session.

### **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;
- (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.

### **RECOMMENDATIONS**

#### **Disbarment**

The court recommends that respondent Elisa Ann Castro 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.

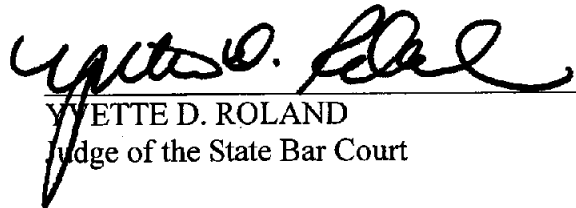
## **Costs**

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 Elisa Ann Castro, State Bar number 171814, 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 4, 2018

  
\_\_\_\_\_  
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 Court Specialist 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 April 5, 2018, 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:

ELISA A. CASTRO  
LAW OFFICE OF ELISA A CASTRO  
4063 BROCKTON AVE  
RIVERSIDE, CA 92501

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

Abraham M. Bagheri, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on April 5, 2018.

  
\_\_\_\_\_  
Angela Carpenter  
Court Specialist  
State Bar Court