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STATE BAR COURT
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PUBLIC MATTER

STATE BAR COURT OF CALIFORNIA

HEARING DEPARTMENT – LOS ANGELES

In the Matter of)	Case No.: 18-C-10191-YDR
)	
JUDY UNKYUNG PAIK,)	
)	DECISION AND ORDER OF
A Member of the State Bar, No. 230988)	INVOLUNTARY INACTIVE
)	ENROLLMENT
_____)	

Respondent Judy Unkyung Paik (Respondent) was convicted in the Los Angeles Superior Court for violating Penal Code section 537(a)(1) (defrauding an innkeeper by nonpayment). Respondent did not appeal her conviction. Upon finality of the conviction, the Review Department issued an order referring this matter to the Hearing Department for a hearing and decision recommending the discipline to be imposed. 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 (OCTC) 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 hearing on conviction, and

¹ Unless otherwise indicated, all references to rules are to this source. Rule 5.345(C) makes the default procedures in rules 5.80-5.86, with certain exceptions, applicable in conviction proceedings.

the attorney fails to have the default set aside or vacated within 90 days, the OCTC 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

Respondent was admitted to practice law in this state on June 1, 2004, and has been a member since then.

Procedural Requirements Have Been Satisfied

On or about January 27, 2014, Respondent pleaded nolo contendere to a misdemeanor violation of Penal Code section 537(a)(1) (defrauding an innkeeper by nonpayment), a crime involving moral turpitude. Specifically, Respondent was charged with and convicted of unlawfully obtaining food and accommodations, without paying therefor, with intent to defraud. The imposition of sentence was suspended and Respondent was placed on summary probation. On July 13, 2017, this case was dismissed pursuant to Penal Code section 1203.4.³

On January 31, 2018, the OCTC transmitted records and evidence of finality of Respondent's conviction to the Review Department. On February 21, 2018, the Review Department referred the matter to the Hearing Department for a hearing and decision recommending the discipline to be imposed. On February 23, 2018, the State Bar Court filed a

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 A dismissal under Penal Code section 1203.4, although often referred to as an "expungement," is an action in mitigation of the defendant's punishment and does not eliminate the existence of the conviction. The final judgment of conviction is a fact and its effect cannot be nullified for the purposes of the State Bar Court issuing orders of disbarment. (See *In re Phillips* (1941) 17 Cal.2d 55, 61.)

Notice of Hearing on Conviction. That same day, the Notice of Hearing on Conviction was properly served on Respondent by certified mail, return receipt requested, at her membership records address. The Notice of Hearing on Conviction notified Respondent that her failure to timely file a written answer to the notice would result in a disbarment recommendation. (Rule 5.345.)

In addition, Respondent had actual notice of this conviction referral proceeding. Respondent met with a deputy trial counsel and an investigator from the OCTC on March 19, 2018. At this meeting, they discussed various topics related to Respondent's case, including the requirement that she file a response in this matter. Moreover, Respondent appeared by telephone for the initial status conference for this matter held on March 26, 2018. As Respondent had not yet filed a response with the court or served a copy on the OCTC, the Court instructed her to do so.

Despite further efforts by the deputy trial counsel, Respondent subsequently failed to file a response to the Notice of Hearing on Conviction. On May 2, 2018, the OCTC 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 May 18, 2018. 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 October 4, 2018, the OCTC filed the petition for disbarment. As required by rule 5.85(A), the OCTC 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 no 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 November 8, 2018.

The Admitted Factual Allegations Warrant the Imposition of Discipline

Upon entry of Respondent's default, the factual allegations set forth in Respondent's conviction matter 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 Respondent's conviction matter support the conclusion that Respondent violated a statute, rule, or court order that would warrant the imposition of discipline. (Rule 5.85(F)(1)(d).)

Case No. 18-C-10191

Respondent was convicted of violating Penal Code section 537(a)(1) (defrauding an innkeeper by nonpayment).⁴ On September 18, 2013, Respondent entered a Whole Foods Market, began eating food from throughout various sections of the store, and walked out without paying. The manager complained that he had witnessed Respondent do the same at least on twelve occasions within recent weeks. On January 27, 2014, Respondent pled nolo contendere to a violation of Penal Code section 537(a)(1).⁵ On June 22, 2017, upon completion of her

⁴ As noted by the Review Department in its underlying referral, defrauding an innkeeper by nonpayment is a misdemeanor that involves moral turpitude.

⁵ Two separate probation violation hearings were held after conviction on this misdemeanor. Respondent was found to have violated her probation both times.

probation, Respondent filed a motion to dismiss pursuant to Penal Code section 1203.4. On July 12, 2017, her petition for dismissal in this case was granted.

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 notice of hearing on conviction was properly served on Respondent;
- (2) Respondent had actual notice 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 Respondent's conviction matter 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 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.

RECOMMENDATIONS

Disbarment

The court recommends that respondent Judy Unkyung Paik 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.

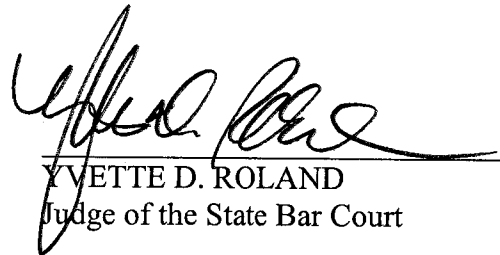
Costs

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 Judy Unkyung Paik, State Bar number 230988, 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: December 3, 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 December 3, 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:

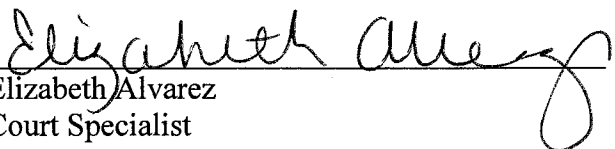
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

JUDY U. PAIK
1515 E COLORADO ST # 312
GLENDALE, CA 91205 - 1513

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

Katherine D. Kinsey, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on December 3, 2018.


Elizabeth Alvarez
Court Specialist
State Bar Court