

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – SAN FRANCISCO

In the Matter of)	Case No.: 11-O-15368-LMA
)	
LISA YVONNE GOLDSTEIN,)	DECISION AND ORDER OF
)	INVOLUNTARY INACTIVE
Member No. 220669,)	ENROLLMENT
)	
<u>A Member of the State Bar.</u>)	

Respondent Lisa Yvonne Goldstein (respondent) was charged with several violations of the Business and Professions Code and the Rules of Professional Conduct in connection with a single client matter. She failed to file a response to the amended notice of disciplinary charges (amended 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.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 180 days, the State Bar will file a petition requesting the court to recommend the attorney's disbarment.²

¹ Except where otherwise indicated, all further references to rules are to the Rules of Procedure of the State Bar.

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(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 October 4, 2002, and has been a member since then.

Procedural Requirements Have Been Satisfied

On October 19, 2011, Deputy Trial Counsel Maria J. Oropeza (DTC Oropeza) telephoned respondent at her membership records telephone number and left a message for respondent advising her of this disciplinary proceeding. On the same day, DTC Oropeza also sent respondent an email advising respondent of this disciplinary proceeding.³

On October 21, 2011, the State Bar filed and properly served a copy of the amended NDC on respondent by certified mail, return receipt requested, both at respondent's membership records address and at an address on Buren Place, Castro Valley, California, which a State Bar investigator obtained as an alternative address for respondent after conducting an Internet search. The amended NDC notified respondent that her failure to participate in the proceeding would result in a disbarment recommendation. (Rule 5.41.) The United States Postal Service returned both service copies of the amended NDC to the State Bar.

On November 22, 2011, DTC Oropeza telephoned respondent's membership records telephone number and left a message advising respondent of the status of her discipline matter. Respondent thereafter failed to file a response to the amended NDC. On November 22, 2011, the State Bar filed and properly served a motion for entry of respondent's default. In addition to serving a copy of the motion for entry of default on respondent at her membership records

³ 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).)

address, the State Bar also served a copy of the motion on respondent at the Buren Place address. 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 December 8, 2011. 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),⁴ 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 180 days to file motion to set aside default].) On June 22, 2012, the State Bar filed the petition for disbarment. As required by rule 5.85(A), the State Bar reported in the petition that: (1) the State Bar has not had any contact with respondent since the default was entered; (2) there is one disciplinary investigation matter pending against respondent; (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 July 18, 2012.

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

⁴ All further statutory references are to the Business and Professions Code.

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).)

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Count One – respondent willfully violated rule 3-700(A)(2) of the Rules of Professional Conduct (improper withdrawal from employment) by failing, upon termination of employment, to take reasonable steps to avoid reasonably foreseeable prejudice to her client, such as not finalizing a settlement agreement, not appearing at a status conference, and not filing a substitution of attorney.

Count Two – respondent willfully violated section 6068, subdivision (m) (failing to communicate) by not responding to her client’s email messages and letters and by not providing her client with any information regarding significant developments in the client’s case.

Count Three – respondent willfully violated Rules of Professional Conduct, rule 4-100(B)(3) (failing to render appropriate accounts of client funds) by not providing her client with an accounting of all the advanced attorney fees.

Count Four – respondent willfully violated section 6103 (failure to obey a court order) by failing to appear at a sanctions hearing as ordered by the superior court.

Count Five – respondent willfully violated section 6068, subdivision (i) (failing to cooperate/participate in a disciplinary investigation) by not responding to a State Bar letter and by not otherwise cooperating in the State Bar disciplinary investigation involving respondent.

Disbarment is Mandated under the Rules of Procedure

Based on the above, the court concludes that the requirements of rule 5.85(E) have been satisfied and that respondent’s disbarment must be recommended. In particular:

- (1) the amended 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, such as leaving telephone messages for respondent, sending respondent an email, conducting an Internet search, and mailing copies of the amended NDC and the motion for entry of default to respondent at both her membership records address and the Buren Place address;

(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.

As set forth in the Rules of Procedure of the State Bar, the court must recommend her disbarment.

RECOMMENDATION

Disbarment

The court recommends that respondent Lisa Yvonne Goldstein 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.

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ORDER OF INVOLUNTARY INACTIVE ENROLLMENT

In accordance with Business and Professions Code section 6007, subdivision (c)(4), the court orders that Lisa Yvonne Goldstein, State Bar Number 220669, 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: August ____, 2012.

LUCY ARMENDARIZ
Judge of the State Bar Court