



**FILED**

**JUN 09 2016**

**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.: <b>14-C-05193-YDR</b>
	)	
<b>WILLIAM JOSEPH HUDAK,</b>	)	
	)	<b>DECISION AND ORDER OF</b>
<b>Member No. 75290,</b>	)	<b>INVOLUNTARY INACTIVE</b>
	)	<b>ENROLLMENT</b>
<u>A Member of the State Bar.</u>	)	

Respondent William Joseph Hudak (“Respondent”) was convicted of violating Penal Code section 594(a)(b)(2)(A) (vandalism under \$400), a misdemeanor violation which may or may not involve moral turpitude or constitute other misconduct warranting discipline. After finality of the conviction, the Review Department of the State Bar Court issued an order referring this matter to the hearing department for a hearing and decision recommending the discipline to be imposed if the facts and circumstances surrounding the violation involved moral turpitude or other misconduct warranting discipline. Respondent failed to participate, either in person or through counsel, and his 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.<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 hearing on conviction,

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

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>

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 California on July 22, 1977, and has been a member since that date.

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

On September 9, 2015, the State Bar Court filed and properly served on Respondent the notice of hearing on conviction ("NOH") in case No. 14-C-05193 by certified mail, return receipt requested, to Respondent's membership records address. The NOH notified respondent that his failure to appear at trial would result in a disbarment recommendation. (Rule 5.345.) The State Bar Court received the NOH return receipt on December 23, 2015, but the signature on the receipt was unintelligible.

Thereafter, the State Bar took additional steps to notify Respondent about these proceedings. On October 6, 2015, the State Bar: (1) attempted to contact Respondent by telephone at his membership records telephone number, but the number was disconnected; (2) attempted to e-mail Respondent a Notice of Intent to File Motion for Default at an email address associated with Respondent obtained by a Lexis Nexis search, but the response email indicated

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<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).)

that the State Bar's email was refused and the recipient unknown;<sup>3</sup> and (3) mailed Respondent a Notice of Intent to File Motion for Default at his membership records address, which was not returned as undeliverable. Additionally, the State Bar conducted a computer search to find an alternate mailing address for Respondent, but the only address found was Respondent's membership records address.

Respondent failed to file a response to the NOH. On October 22, 2015, the State Bar properly filed and served a motion for entry of Respondent's default. The motion complied with all the requirements for a default, including a supporting declaration of reasonable diligence by the State Bar DTC counsel declaring the additional steps taken to provide notice to Respondent. (Rule 5.80.) The motion also notified Respondent that, if he did not timely move to set aside his default, the court would recommend his disbarment. Respondent did not file a response to the motion, and his default was entered on November 20, 2015. The order entering the default was served on Respondent at his 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. He has remained inactively enrolled since that time.

Respondent did not seek to have his default set aside or vacated. (Rule 5.83(C)(1) [attorney has 90 days to file motion to set aside default].)

On February 26, 2016, the State Bar properly filed and served the petition for disbarment on Respondent at his 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 his default was entered; (2) there are no other investigative matters against Respondent; (3) Respondent has two prior records of discipline; and (4) the Client Security Fund has not paid any claims as a

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<sup>3</sup> 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).)

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 March 29, 2016.

### **Prior Record of Discipline**

Respondent has two prior records of discipline. Pursuant to an order of the Supreme Court filed on March 30, 1994, Respondent was suspended for two years, the execution of which was stayed, and he was placed on probation for two years subject to conditions including that he be suspended from the practice of law for 90 days and until he paid any court-ordered restitution. Respondent was found culpable of misconduct in two client matters. Respondent failed to perform competently in both matters; took a fee in a probate court case without disclosure to and permission of the court as required by the Probate Code; and failed to communicate with a client in one matter.

In his second prior, pursuant to an order of the Supreme Court filed on June 14, 1995, Respondent was suspended for 30 days. Respondent stipulated that he failed to comply with California Rules of Court, former rule 955 by filing his compliance affidavit 15 days late.

### **The Admitted Factual Allegations Warrant the Imposition of Discipline**

Upon entry of Respondent's default, the factual allegations set forth in the State Bar's statement of facts and circumstances surrounding respondent's conviction are deemed admitted and no further proof is required to establish the truth of such facts. (Rule 5.346(D).) As set forth below in greater detail, Respondent's vandalism conviction supports 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 Number 14-C-05193 - (Conviction Matter – Vehicle Code Penal Code § 594(a)(b)(2)(A))**

Respondent was convicted of violating Penal Code section 594(a)(b)(2)(A) (vandalism under \$400). On August 1, 2014, Respondent's neighbor filed a report of vandalism and a

police officer was dispatched to the neighbor's home. The corner of the neighbor's fence adjacent to Respondent's property had been damaged. The neighbor explained that he and Respondent had been having a dispute about the property boundary line. The neighbor provided the police officer with video surveillance of an individual, who the neighbor identified as Respondent, using a hammer to break off the top of the neighbor's steel fence. The neighbor estimated that it would cost \$4.00 to repair the damage.

Respondent's neighbor made three additional vandalism reports to the police. On August 15, August 22, and September 12, 2014, an officer responded to the vandalism calls and observed a large amount of yellow liquid pooled in the bed of the neighbor's truck. The liquid emitted a strong urine odor. Each time the vandalism was reported, the neighbor provided the police officer with video surveillance of an individual pouring liquid into the neighbor's truck bed. Twice the neighbor identified Respondent as the individual in the surveillance video. The estimated damage to the truck bed liner was hundreds of dollars.

On September 25, 2014, the San Diego District Attorney filed a misdemeanor complaint in San Diego County Superior Court in case number M190121 charging Respondent with one count of Penal Code section 594(a)(b)(2)(A) for damaging or destroying real and personal property that did not belong to Respondent, where the amount of destruction was less than \$400. The District Attorney filed three other charges against Respondent for tampering with a vehicle. The misdemeanor complaint was amended on March 17, 2015, adding a fifth count of battery that occurred on August 15, 2014.

Respondent pled guilty to a violation of Penal Code section 594(a)(b)(2)(A) on April 8, 2015. The remaining counts were dismissed. The court sentenced Respondent to a three-year summary probation, anger management classes and a stay away order. Respondent was ordered to pay restitution to his neighbor.

Damaging or destroying property where the amount of destruction is less than \$400 is a crime that may or may not involve moral turpitude or other misconduct warranting discipline, depending upon the facts and circumstances surrounding the conviction. The court finds that the facts and circumstances surrounding respondent's conviction do not involve moral turpitude, but do constitute other misconduct warranting discipline.

### **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 NOH 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 his default;
- (3) the default was properly entered under rule 5.80; and
- (4) the factual allegations in the statement of facts and circumstances surrounding respondent's convictions 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 fully participate in this disciplinary proceeding. As set forth in the Rules of Procedure of the State Bar, the court recommends Respondent's disbarment.

### **RECOMMENDATION**

#### **Disbarment**

The court recommends that respondent **William Joseph Hudak**, State Bar number 75290, be disbarred from the practice of law in the State of California and that his 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.

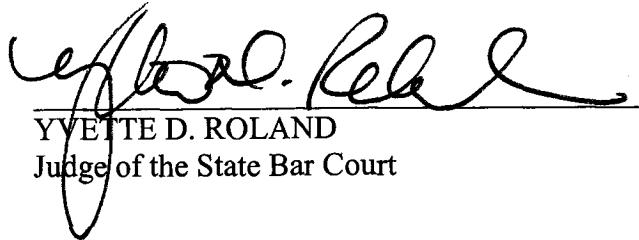
**Costs**

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 **William Joseph Hudak**, State Bar number 75290, 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: June 8, 2016

  
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 June 9, 2016, 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:

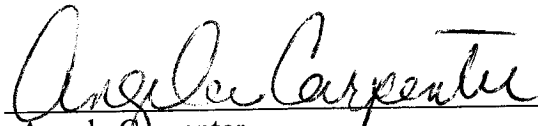
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

WILLIAM JOSEPH HUDAK  
5450 COLLIER AVE  
SAN DIEGO, CA 92115 - 2240

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

Jamie J. Kim, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on June 9, 2016.



Angela Carpenter  
Case Administrator  
State Bar Court