



PUBLIC MATTER

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STATE BAR COURT OF CALIFORNIA  
HEARING DEPARTMENT – SAN FRANCISCO

In the Matter of	)	Case Nos.: 17-N-06605;
	)	17-O-06801-MC (Cons.)
BARBARA TRUMAN ZORR,	)	
	)	
A Member of the State Bar, No. 112693	)	DECISION AND ORDER OF
	)	INVOLUNTARY INACTIVE
	)	ENROLLMENT

Respondent Barbara Truman Zorr (Respondent) was charged with a violation of Business and Professions Code section 6068, subdivision (k) and California Rules of Court 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 (OCTC) 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 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. The court grants the petition and recommends that Respondent be disbarred from the practice of law.

## **FINDINGS AND CONCLUSIONS**

### **Jurisdiction**

Respondent was admitted to practice law in this state on December 22, 1983, and has been a member since then.

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

On March 29, 2018, OCTC properly served the NDC on Respondent by certified mail, return receipt requested, and by U.S. first-class mail, at her membership records address. The NDC was filed with the State Bar Court on March 29, 2018. The NDC notified Respondent that her failure to participate in the proceeding would result in a disbarment recommendation. (Rule 5.41.) The certified letter was not picked up nor was it returned to the State Bar of California. A courtesy copy of the NDC was also sent to Respondent by regular first-class mail to Respondent's membership records address. This letter, which contained a copy of the NDC, was not returned by the U.S. Postal Service.

On April 5, 2018, Deputy Trial Counsel Melissa G. Murphy (DTC Murphy) attempted to reach Respondent at her membership records telephone number. The recorded message indicated that the number was disconnected. That same day, DTC Murphy sent an e-mail to Respondent's membership records e-mail address<sup>3</sup> informing her that an NDC had been filed.

On April 13, 2018, DTC Murphy sent another courtesy copy of the NDC, along with a courtesy copy of the court's Notice of Assignment and Notice of Initial Status Conference, by regular first-class mail to Respondent's membership records address, as well as an alternate

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<sup>3</sup> Effective February 1, 2010, all attorneys are required to maintain a current e-mail address to facilitate communications with the State Bar. (Cal. Rules of Court, rule 9.7(a)(2).)

address for Respondent found by a State Bar Investigator's search of public records. This alternate address matched the address on a photograph of Respondent's California driver's license. Both letters were not returned by the U.S. Postal Service.

On April 30, 2018, communication between DTC Murphy and the Office of Probation<sup>4</sup> confirmed that the Office of Probation did not have any additional addresses for Respondent, nor any information about her whereabouts. That same day, DTC Murphy placed a call to Respondent's membership records fax number and received a message that the number was not in service.

Respondent failed to file a response to the NDC. On May 1, 2018, OCTC filed and properly 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 assigned deputy trial counsel. (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. This motion was sent by certified mail, return receipt requested, and by regular first-class mail to Respondent's membership records address, as well as the alternate address. Both letters were returned as undeliverable in June 2018. Respondent still did not file a response to the motion, and her default was entered on May 17, 2018. The court also ordered Respondent's involuntary inactive enrollment as a member of the State Bar pursuant to section 6007, subdivision (e), effective three days after service of the order, and she has remained inactively enrolled since that time. The order entering the default and enrolling Respondent inactive was served on Respondent at her membership records address by certified mail, return receipt requested.

Respondent 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 September 10, 2018, OCTC filed

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<sup>4</sup> Respondent is currently on disciplinary probation.

and properly served on Respondent a petition for disbarment. As required by rule 5.85(A), OCTC reported in the petition that: (1) Respondent has not contacted the State Bar since the date that the order entering her default was entered; (2) there are no other disciplinary matters pending against Respondent; (3) Respondent has a record of prior discipline; and (4) there have not been any payments made from the Client Security Fund 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 October 9, 2018.

### **Prior Record of Discipline**

Respondent has two prior records of discipline.<sup>5</sup> On June 7, 1996, the Supreme Court filed an order suspending Respondent from the practice of law for six months, staying execution of that suspension, and placing Respondent on probation for two years with the condition that she be actually suspended for 60 days. She was also ordered to comply with other conditions of probation, including restitution as per the First Amended Order Regarding Stipulation filed January 4, 1996, as modified by order of January 31, 1996. As to State Bar case No. 94-O-13924, Respondent stipulated that she willfully violated (1) rule 3-110(A) of the State Bar Rules of Professional Conduct, by repeatedly failing to perform legal services for which she was employed; (2) section 6106 of the Business and Professions Code, by misrepresenting the status of the case; and (3) section 6068, subdivision (m) of the Business and Professions Code, by failing to respond to status inquiries. In consolidated case No. 95-O-12398, Respondent stipulated that she willfully violated (1) section 6068, subdivision (m) of the Business and Professions Code, by failing to respond to status inquiries; and (2) rule 3-700(D)(1) of the State Bar Rules of Professional Conduct, by failing to promptly return the client file.

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<sup>5</sup>The court admits into evidence the certified copies of Respondent's prior record of discipline attached to the September 10, 2018 petition for disbarment.

Pursuant to the Supreme Court order filed on June 26, 2017, Respondent was ordered suspended from the practice of law for one year, execution of suspension was stayed, and Respondent was placed on probation for two years with the condition that she be actually suspended for the first 90 days of probation. She was ordered to comply with other conditions of probation as per the Stipulation filed on January 12, 2017, as well as to comply with California Rules of Court, rule 9.20 within a specified time frame. In State Bar case No. 15-O-14301, Respondent stipulated that she committed an act of moral turpitude in willful violation of Business and Professions Code section 6106, by reporting under penalty of perjury that she was in compliance with the MCLE requirements when she knew that she was not in compliance.

#### **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(2).) 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).)

##### **1. Case Number 17-N-06605 (Rule 9.20 Compliance Matter)**

Respondent willfully violated rule 9.20 of the California Rules of Court by failing to file a timely declaration of compliance with rule 9.20 with the clerk of the State Bar Court in conformity with the requirements of rule 9.20(c) as required by the Supreme Court order in State Bar case No. 15-O-14301.

##### **2. Case Number 17-O-06801 (Failure to Comply with Conditions of Probation)**

Respondent willfully violated section 6068, subdivision (k), failure to comply with conditions of probation by failing to (1) contact the Office of Probation to schedule the required meeting; (b) hold the required meeting with the Office of Probation; and (c) submit quarterly

reports by their due dates, as required by the conditions of Respondent's disciplinary probation in State Bar case No. 15-O-14301.

**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 Barbara Truman Zorr, State Bar number 112693, 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 Barbara Truman Zorr, State Bar number 112693, 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, 2018

  
MANJARI CHAWLA  
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 San Francisco, on November 21, 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:

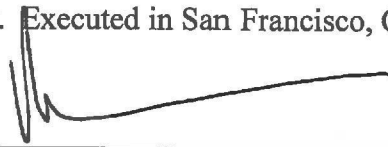
by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

BARBARA TRUMAN ZORR  
P O BOX 6042  
SAN RAFAEL, CA 94903 - 6042

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

Melissa G. Murphy, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on November 21, 2018.



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Vincent Au  
Court Specialist  
State Bar Court