

# PUBLIC MATTER

FILED

SEP 24 2018

STATE BAR COURT  
CLERK'S OFFICE  
LOS ANGELES

## STATE BAR COURT OF CALIFORNIA HEARING DEPARTMENT – LOS ANGELES

In the Matter of	)	Case No. 17-O-06176-DFM
	)	
CONNIE LEE YOUNGER,	)	DECISION AND ORDER OF
	)	INVOLUNTARY INACTIVE
A Member of the State Bar, No. 224357.	)	ENROLLMENT
_____	)	

Respondent Connie Lee Younger (Respondent) was charged with failing to comply with certain conditions attached to her disciplinary probation. 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>

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<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 February 10, 2003, and has been a member since then.

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

On January 26, 2018, the State Bar filed and properly served the NDC in this matter on Respondent by certified mail, return receipt requested, to 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 return receipt card for the certified mail was returned to the OCTC on January 31, 2018, bearing Respondent's signature and was dated January 29, 2018.

Respondent failed to file a response to the NDC. On February 26, 2018, the OCTC filed and properly served a motion for entry of default on Respondent by certified mail, return receipt requested, to her membership records address. The motion complied with all the requirements for a default, including a supporting declaration of reasonable diligence by the OCTC's deputy trial counsel assigned to this matter declaring, "On January 31, 2018, the [OCTC] received a signed return receipt for the NDC, bearing [R]espondent's signature and dated January 29, 2018."<sup>3</sup> (Rule 5.80). The motion notified Respondent that if her default was entered and she did not timely move to set aside her default, the court would recommend her disbarment.

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<sup>3</sup> Declaration of Jamie Kim attached to the OCTC's motion for entry of Respondent's default.

On March 1, 2018, the OCTC filed and served a supplemental declaration<sup>4</sup> to the motion for entry of Respondent's default on Respondent by certified mail, return receipt requested, to her membership records address.

Respondent did not file a response to the motion,<sup>5</sup> and her default was entered on March 19, 2018. The order entering the default was served on Respondent at her membership records address by certified mail, return receipt requested.<sup>6</sup> 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. 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 August 6, 2018, the OCTC filed and properly served the petition for disbarment on Respondent at her membership records address by certified mail, return receipt requested. As required by rule 5.85(A), the State Bar reported in the petition that: (1) it has not had any contact with Respondent since her default was entered;<sup>7</sup> (2) there are other investigations or disciplinary charges pending against Respondent; (3) Respondent has a record of prior discipline; and (4) the Client Security Fund has not paid out any claims 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 September 4, 2018.

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<sup>4</sup> The declaration was of the OCTC's then-assigned deputy trial counsel in this matter.

<sup>5</sup> The motion was returned to OCTC reflecting that it was unclaimed and the postal service was unable to forward it.

<sup>6</sup> The order was returned to the court reflecting that it was unclaimed and the postal service was unable to forward it.

<sup>7</sup> The declaration of Senior Trial Counsel Eric Aufdengarten reflects that there has been no contact with Respondent since the return receipt signed by Respondent was returned to the OCTC on January 31, 2018.

## **Prior Record**

Respondent has a prior record of discipline. Pursuant to a Supreme Court order filed on March 19, 2015, Respondent was suspended for two years, the execution of which was stayed, and she was placed on probation for two years subject to conditions, including that she be suspended for a minimum of the first year of probation and until she had made specified restitution.<sup>8</sup> Respondent was found culpable in this prior disciplinary matter of willfully violating rule 4-100(B)(4) of the State Bar Rules of Professional Conduct by failing to pay client funds promptly and willfully violating Business and Professions Code section 6106 by misappropriating \$5,000 of settlement funds.

## **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.) 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 Number 17-O-06176 (Probation Violation Matter)**

By failing to (1) timely submit compliant quarterly reports and client funds reports that were due on April 10, 2016 and April 10, 2017; (2) timely submit a final report and a final client funds report which were due on April 18, 2017; and (3) submit proof of attendance at a session of Ethics School and a session of Client Trust Accounting School and passage of the test given at the end of those sessions by April 18, 2016, Respondent failed to comply with certain conditions attached to the disciplinary probation in State Bar case No. 12-O-13663 in willful violation of

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<sup>8</sup> The order also provided that if Respondent remains suspended for two years or more as a result of not satisfying the restitution condition, before her suspension will be terminated, she must provide proof to the State Bar Court of her rehabilitation, fitness to practice and learning and ability in the general law.

Business and Professions Code section 6068, subdivision (k) (duty to comply with probation conditions).

**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) 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 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 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**

**Discipline - Disbarment**

It is recommended that Connie Lee Younger, State Bar Number 224357, be disbarred from the practice of law in California and that her name be stricken from the roll of attorneys.

**California Rules of Court, Rule 9.20**

It is further recommended 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 imposing discipline in this matter.<sup>9</sup> Failure to do so may result in disbarment or suspension.

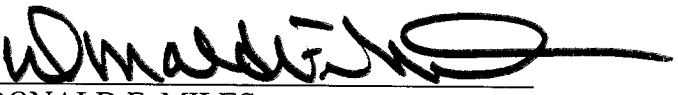
### Costs

It is further recommended that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10, and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment. Unless the time for payment of discipline costs is extended pursuant to subdivision (c) of section 6086.10, costs assessed against a member who is actually suspended or disbarred must be paid as a condition of reinstatement or return to active status.

### ORDER OF INVOLUNTARY INACTIVE ENROLLMENT

In accordance with Business and Professions Code section 6007, subdivision (c)(4), the court orders that Connie Lee Younger, State Bar number 224357, 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: September 24, 2018

  
DONALD F. MILES  
Judge of the State Bar Court

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<sup>9</sup> For purposes of compliance with rule 9.20(a), the operative date for identification of “clients being represented in pending matters” and others to be notified is the filing date of the Supreme Court order, not any later “effective” date of the order. (*Athearn v. State Bar* (1982) 32 Cal.3d 38, 45.) Further, Respondent is required to file a rule 9.20(c) affidavit even if Respondent has no clients to notify on the date the Supreme Court filed its order in this proceeding. (*Powers v. State Bar* (1988) 44 Cal.3d 337, 341.) In addition to being punished as a crime or contempt, an attorney’s failure to comply with rule 9.20 is, inter alia, cause for disbarment, suspension, revocation of any pending disciplinary probation, and denial of an application for reinstatement after disbarment. (Cal. Rules of Court, rule 9.20(d).)

## 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 September 24, 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:

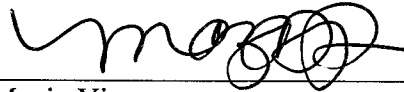
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

CONNIE L. YOUNGER  
266 W BIG SPRINGS RD  
APT B  
RIVERSIDE, CA 92507

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

ERIC J. AUFDENGARTEN, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on September 24, 2018.



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Mazie Yip  
Court Specialist  
State Bar Court