

FILED & ENTERED

JAN 19 2012

CLERK U.S. BANKRUPTCY COURT
Central District of California
BY rust DEPUTY CLERK

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION

In re:

Case No. 9:09-mp-00001-RR

THE DISCIPLINARY PROCEEDING OF
MARCELLA C OKA.

**MEMORANDUM OF DISCIPLINARY
PROCEEDING AGAINST MARCELLA
C OKA**

The matter before the court is a disciplinary proceeding (“Proceeding”) commenced against attorney Marcella Oka pursuant to Third Amended General Order 96-95 of the United States Bankruptcy Court for the Central District of California (the “General Order”).

Statement of Procedure and Notice of Hearing

The Proceeding was initiated by Bankruptcy Judge Geraldine Mund on a written Statement of Cause against Ms. Oka filed on March 9, 2009 (the “Statement of Cause”). On

1 February 25, 2009, there was a hearing on Judge Mund's Order to Show Cause Why Attorney
2 Marcella C. Oka Should Not be Referred to the Disciplinary Committee of the U.S. Bankruptcy
3 Court for the Central District of California and the State Bar of California. The Order was filed
4 in In re Lauren W. Young, chapter 7 case no SV 08-14854GM. Ms Oka failed to respond to the
5 Order to Show Cause or to appear at the noticed hearing. In accordance with the Order, the
6 matter was referred to a disciplinary panel established under the General Order.
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8 In accordance with the procedure set forth in the General Order, the Clerk of the
9 Bankruptcy Court designated a panel of three bankruptcy judges from this district to hear the
10 Proceeding. The member of the panel are the Hon. Robin Riblet,, the Hon. Erithe Smith, and the
11 Hon, Richard Neiter. (collectively, the "Panel"). A Notice of Assignment of Hearing Panel was
12 served on Ms. Oka. Pursuant to the General Order, she had until the expiration of a period of 10
13 days after service of the foregoing notice to move to recuse one or more of the judges assigned to
14 the Panel. No motion to recuse was filed.
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16 Ms. Oka was served with the Statement of Cause in this disciplinary proceeding on April
17 28, 2009. She did not file a written response of any kind to the Statement of Cause. A hearing
18 on notice to Ms. Oka was held before the Panel on October 2, 2009. Ms. Oka and a witness,
19 Sherri Watson, appeared and provided sworn testimony. There were no other appearances.
20 Although the hearing was noticed to commence at 10:00 a.m., Ms. Oka did not appear until
21 11:26 a.m. Her stated excuse was that she had taken public transportation and could not arrive
22 any earlier.
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25 **Statement of Cause Pursuant to General Order No. 96-05**

26 The conduct that gave rise to the Statement of Cause is set forth in a letter to Judge Mund
27 from Debtor Lauren Young dated January 10, 2009. According to the letter, Lauren Young hired
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1 Marcella Oka to represent her in a chapter 7 bankruptcy case which was filed on July 14, 2008.
2 Some time during the pendency of the case Ms. Young entered into a Reaffirmation Agreement
3 with GMAC regarding a 2006 GMC Envoy. The docket reflects that Judge Mund disapproved
4 the Reaffirmation Agreement by order of September 17, 2008. Ms. Young received notice of
5 that decision on September 20, 2008. Two days later she phoned Ms. Oka to find out what she
6 needed to do in order to return the vehicle to GMAC. Ms Oka directed her to bring the vehicle
7 to the lawyer's office and she would arrange for the return of the vehicle. On September 25,
8 2008, Ms. Young dropped off the vehicle and both sets of keys at Ms. Oka's office as she had
9 been directed.
10

11 On November 12, 2008, Ms. Young received a NOTICE OF DELINQUENT PARKING
12 VIOLATION regarding the vehicle. The Notice reflected an expired meter violation at 9:41 a.m.
13 on October 20, 2008, at 370 Temple St. E. Ms. Young did not concern herself with the Notice as
14 she assumed that the vehicle had been surrendered to GMAC prior to the date of the violation.
15 Thereafter Ms Young received a letter from GMAC Financial Services, dated November 19,
16 2008, advising her that her car payments were in arrears and demanding immediate payment.
17 Upon receipt of the letter she phoned GMAC and learned that the vehicle had never been
18 returned to the lender. Ms Young next phoned Ms. Oka regarding the vehicle and was advised
19 by the lawyer that the parking ticket had been taken care of. However, Ms. Young subsequently
20 received a second Notice from the City of Los Angeles, dated December 22, 2008, that the
21 parking ticket remained outstanding and a penalty was payable in addition to the fine for a total
22 of \$100.00.
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The Hearing

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2 Based upon the foregoing, a hearing on notice to Ms. Oka was held before the Panel on
3 October 2, 2009. Ms. Oka appeared on her own behalf along with her assistant, Sherri Watson.
4 Although Ms. Oka did not file a written response the Statement of Cause, the Panel received
5 sworn testimony from both women.
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7 Ms. Oka did not dispute significantly the above summary of facts. She acknowledged
8 that her client dropped off at her office the vehicle and keys to be returned. She further
9 acknowledged that Ms. Watson drove her to downtown Los Angeles to court in the returned
10 vehicle on October 20, 2008. When asked about driving the Envoy, Ms. Oka testified that she
11 had not driven it, but that someone in her office must have driven the vehicle with her
12 permission. She emphasized that the vehicle “wasn’t driven that much.”
13

14 She further testified that she did not become aware of the parking ticket until contacted
15 by Ms. Young, although Ms. Watson, who acknowledged she was the driver on October 20,
16 2008, testified that Ms. Oka was made aware of the ticket when it was found on the vehicle. Ms.
17 Oka further testified that though she eventually paid the parking ticket, she was unable to do so
18 when she first learned of it as she had no money.
19

20 In an attempt to exculpate herself, Ms. Oka stated that she attempted to return the vehicle
21 immediately upon Ms. Young leaving it at her office. This purported attempt took the form of
22 leaving several voice mail messages with GMAC.. After being contacted by Ms. Young about
23 the parking ticket, Ms. Oka successfully contacted GMAC at some point during the first two
24 weeks of December 2008, and the Envoy was ultimately recovered by the lender.
25

26 Both witnesses testified at length regarding Ms. Oka’s uncontrolled diabetes and the
27 effect it had on her practice of law. Ms. Oka testified that she became ill in 2005 and was still
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1 unable to control her disease, resulting in frequent and lengthy hospitalizations. Specifically, she
2 had spent much of the months of September and November, 2008, hospitalized. Ms. Watson
3 testified that Ms. Oka's memory and behavior also appeared to have been impacted by her
4 disease. She referred to Ms. Oka's behavior as "dingy."

5 Ms. Oka testified as to the nature of her practice. She is a sole practitioner who rents
6 space in an office on an as needed basis where she meets with clients. Ms Watson is her only
7 assistant.
8

9 Finally, Ms. Oka testified that she has been determined to be disabled as a result of her
10 disease, and would soon begin to collect disability payments from the Social Security
11 Administration. As a result, she would be very limited in the amount she could receive as fees
12 for services going forward. She had only three pending bankruptcy cases at the time of the
13 hearing and wanted to complete those cases. Furthermore, she stipulated on the record that until
14 a decision was rendered by this Panel she would not file any new bankruptcy cases.
15

16 Notwithstanding her agreement to the contrary, court records reflect that on October 22,
17 2009, less than one month following her disciplinary hearing, Ms. Oka once again filed a chapter
18 7 petition, this time in the Los Angeles division, commencing In re Bravo, 09-39119-PC. She
19 appears to have filed no further petitions.
20

21 **Findings**

22 The Panel is sympathetic to the significant physical problems which Ms. Oka faces due to
23 her uncontrolled diabetes. However, so long as her disease remains uncontrolled and she is
24 subject to frequent hospitalizations, her ability to appear at hearings and meet deadlines is greatly
25 diminished, all to the prejudice of her clients.
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1 Furthermore, the actions taken by Ms. Oka with reference to Lauren Young's vehicle
2 raise extremely serious ethical issues to which Ms. Oka appears to have been oblivious or
3 heedless. Had there been an accident involving the vehicle while in the control of Ms. Oka, it
4 would have been Lauren Young as owner to whom an injured victim could have looked for
5 recompense. It is likely Ms. Young cancelled her insurance upon delivering the vehicle to her
6 lawyer. Ms. Oka does not appear to have contemplated the risk to which she put her client.
7
8 Furthermore, she expressed no remorse whatsoever as to her actions.

9 By failing to return the client's vehicle promptly to GMAC and by retaining it for her
10 personal use, Marcella Oka intentionally and recklessly failed to perform legal services with
11 competence in willful violation of Rules of Professional Conduct, rule 3-110(A).
12

13 As a result of the foregoing, the Panel concludes that disciplinary sanctions should be
14 imposed against Ms. Oka for violation of her ethical duty and responsibility under California
15 Rules of Professional Conduct.

16 Finally, the Panel notes that Marcella Oka is currently subject to an actual suspension by
17 the State Bar of California pursuant to a Stipulation re Facts, Conclusions of Law and
18 Disposition and Order Approving Actual Suspension, filed as a public matter on December 21,
19 2010.
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21 Marcella Oka should be suspended for two years from practicing before the United States
22 Bankruptcy Court for the Central District of California, commencing upon the effective date of
23 the above-mentioned State Bar suspension and running concurrently therewith. Upon Ms. Oka's
24 reinstatement to the California State Bar, she may apply for reinstatement to practice before the
25 Bankruptcy Court. As conditions of reinstatement to practice before this court, Ms. Oka should
26 be ordered to complete continuing legal education in the subject of legal ethics and demonstrate
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1 through declaratory evidence of a medical doctor (M.D.) that the diabetes which has disabled
2 Ms. Oka has been under control for a period of six months.

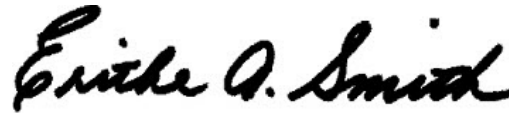
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7 Dated: January 19, 2012



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Robin Riblet
United States Bankruptcy Judge, Presiding

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11 Dated: January 19, 2012



12 _____
Erithe A. Smith
United States Bankruptcy Judge

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17 Dated: January 19, 2012



18 _____
Richard M. Neiter
United States Bankruptcy Judge

NOTE TO USERS OF THIS FORM:

- 1) Attach this form to the last page of a proposed Order or Judgment. Do not file as a separate document.
- 2) The title of the judgment or order and all service information must be filled in by the party lodging the order.
- 3) **Category I.** below: The United States trustee and case trustee (if any) will always be in this category.
- 4) **Category II.** below: List **ONLY** addresses for debtor (and attorney), movant (or attorney) and person/entity (or attorney) who filed an opposition to the requested relief. **DO NOT** list an address if person/entity is listed in category I.

NOTICE OF ENTERED ORDER AND SERVICE LIST

Notice is given by the court that a judgment or order entitled (*specify*) **MEMORANDUM OF DISCIPLINARY PROCEEDING AGAINST MARCELLA OKA** was entered on the date indicated as “Entered” on the first page of this judgment or order and will be served in the manner indicated below:

I. SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (“NEF”) Pursuant to controlling General Order(s) and Local Bankruptcy Rule(s), the foregoing document was served on the following person(s) by the court via NEF and hyperlink to the judgment or order. As of **1/19/2012**, the following person(s) are currently on the Electronic Mail Notice List for this bankruptcy case or adversary proceeding to receive NEF transmission at the email address(es) indicated below.

Service information continued on attached page

Ron Maroko on behalf of U.S. Trustee United States Trustee (LA)

Ron.maroko@usdoj.gov

Lydia Yurchuk on behalf of U.S. District Court – Central District of California

Lydia_yurchuk@cacd.uscourts.gov

Brooke Schafer on behalf of State Bar of California

brooke.schafer@calbar.ca.gov

II. SERVED BY THE COURT VIA U.S. MAIL: A copy of this notice and a true copy of this judgment or order was sent by United States Mail, first class, postage prepaid, to the following person(s) and/or entity(ies) at the address(es) indicated below:

Service information continued on attached page

Marcella C. Oka, Esq.

P.O. Box 2006

Van Nuys, CA 91404

III. TO BE SERVED BY THE LODGING PARTY: Within 72 hours after receipt of a copy of this judgment or order which bears an “Entered” stamp, the party lodging the judgment or order will serve a complete copy bearing an “Entered” stamp by U.S. Mail, overnight mail, facsimile transmission or email and file a proof of service of the entered order on the following person(s) and/or entity(ies) at the address(es), facsimile transmission number(s), and/or email address(es) indicated below:

All Bankruptcy Judges for the Central District of California (via email)

Service information continued on attached page

This form is mandatory. It has been approved for use by the United States Bankruptcy Court for the Central District of California.

August 2010

F 9021-1.1.NOTICE.ENTERED.ORDER