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STATE BAR COURT
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LOS ANGELES

PUBLIC MATTER

THE STATE BAR COURT HEARING DEPARTMENT - LOS ANGELES

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In the Matter of
REGINA D. STEELE,
Member No. 141596,
A Member of the State Bar.

Case No. 03-O-04023-RAH
DECISION

I. INTRODUCTION

The above-entitled default matter was submitted for decision as of July 26, 2004, after the State Bar of California, Office of the Chief Trial Counsel ("State Bar") waived the hearing in this matter and submitted a brief regarding culpability and discipline. The State Bar was represented by Timothy G. Byer, Deputy Trial Counsel. Respondent Regina Steele did not participate in this matter, and her default was entered as a result of her failure to respond to the charges filed against her.

In light of Respondent's culpability in this proceeding, and after considering the aggravating circumstances surrounding Respondent's misconduct, and the sole mitigating factor present in this matter, the Court recommends that Respondent be suspended from the practice of law for two years, that execution of suspension be stayed, and that Respondent be actually suspended from the practice of law for a period of thirty days, and until she makes the specified restitution and until she files a motion with the State Bar Court seeking termination of her actual suspension pursuant to rule 205 of the Rules of Procedure of the State Bar.

II. PERTINENT PROCEDURAL HISTORY

This proceeding was initiated by the State Bar's filing of a Notice of Disciplinary Charges ("NDC") against Respondent on February 11, 2004, charging Respondent with seven counts of

1 misconduct in connection with a single client matter.

2 A copy of the NDC was properly served upon Respondent on February 11, 2004, by certified
3 mail, return receipt requested, addressed to Respondent at her official membership records address
4 ("official address") maintained by Respondent pursuant to Business and Professions Code section
5 6002.1, subdivision (a). On February 18, 2004, the notice was returned by the postal service as
6 undeliverable.

7 On February 11, 2004, a second copy of the NDC was also sent to an address identified as
8 Respondent's residence at 7291 Steinbeck Avenue, San Diego, CA 92122 ("the Steinbeck address").

9 On April 2, 2004, a third copy of the NDC was sent to Respondent at the Steinbeck address
10 by certified mail, return receipt requested. The notice was returned by the postal service as
11 unclaimed.

12 On April 28, 2004, the State Bar extended yet another opportunity for Respondent to file a
13 response to the NDC by writing a letter to Respondent telling her a motion for entry of her default
14 would be filed unless she filed a response to the NDC, or at the very least contacted the State Bar,
15 by May 4, 2004.¹

16 As Respondent did not file a response to the NDC as required by rule 103 of the Rules of
17 Procedure of the State Bar of California ("Rules of Procedure"), on May 5, 2004, the State Bar filed
18 a motion for the entry of Respondent's default. The motion also contained a request that the Court
19 take judicial notice, pursuant to Evidence Code section 452(h), of all of Respondent's
20 official membership addresses. A copy of said motion was properly served upon Respondent on May
21 5, 2004, by certified mail, return receipt requested, addressed to Respondent at both her official
22 address and the Steinbeck address.

23 On May 11, 2004, the copy of the motion served on Respondent at her official address was
24 returned by the postal service as undeliverable, with a notation that Respondent had moved and left
25 no address for the forwarding of her mail. The copy of the motion served on Respondent at the
26 Steinbeck address was returned as unclaimed.

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¹See Exhibit 2 attached to the motion for entry of default, filed on May 5, 2004.

1 When Respondent failed to file a written response within 10 days after service of the motion
2 for the entry of her default, on June 2, 2004, the Court filed an Order of Entry of Default (Rule 200-
3 Failure to File Timely Response) and Order of Involuntary Inactive Enrollment.² A copy of said order
4 was properly served upon Respondent on June 2, 2004, by certified mail, return receipt requested,
5 addressed to Respondent at both her official address and the Steinbeck address. Both copies of the
6 order were returned by the postal service as undeliverable.

7 On July 26, 2004, the State Bar filed a brief on the issues of culpability and discipline and
8 a waiver of hearing in this matter. The matter was submitted for decision on July 26, 2004.

9 **III. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

10 **Jurisdiction**

11 Respondent was admitted to the practice of law in the State of California on August 14, 1989,
12 was a member at all times pertinent to these charges, and is currently a member of the State Bar of
13 California.

14 **Case No.03-O-04023 - The Brown Matter (Counts 1-7)**

15 On June 19, 2003, Michael J. Brown employed Respondent to file an Application for
16 Naturalization (Form N-400) with the U.S. Citizenship and Immigration Services ("USCIS").
17 Respondent agreed to file Brown's application and to represent him throughout the application
18 process. On June 19, 2003, Brown paid Respondent \$1,250.00 in advanced fees for her services.

19 Thereafter, Respondent performed no legal services on behalf of Brown, and, specifically,
20 failed to file the application with USCIS. However, Respondent did not tell Brown that she was not
21 going to perform the legal services for which she was employed.

22 From June 2003 through September 24, 2003, Brown placed at least twenty telephone calls
23 to Respondent's office, leaving messages requesting that Respondent return his calls and tell him the
24 status of his application. Respondent did not return any of Brown's telephone calls, or otherwise
25 communicate with him regarding the application she agreed to file.

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28 ²Respondent's involuntary inactive enrollment pursuant to Business and Professions Code
section 6007(e) was effective three days after the service of this order by mail.

1 On November 14, 2003, after not receiving any information from Respondent regarding his
2 application, Brown sent a letter to Respondent in which he terminated Respondent's employment and
3 requested a full refund of the \$1,250.00, an accounting for the fees advanced, and the return of his
4 file. The letter was sent by certified mail, addressed to Respondent at her office address. The letter
5 was returned by the postal service with a notation that Respondent had moved and left no forwarding
6 address. Respondent had closed her law office in early October 2003, and did not provide Brown her
7 new address and telephone number.

8 Respondent neither refunded nor accounted for the \$1,250.00 paid by Brown as advanced
9 fees. In addition, at no time did Respondent return Brown's client file or communicate with Brown
10 regarding how he could obtain the file.

11 Thereafter, Brown employed another attorney to file his Application for Naturalization.

12 On October 6, 2003, the State Bar opened an investigation pursuant to a complaint filed
13 against Respondent regarding her handling of the Brown matter.

14 On November 24, 2003, a State Bar investigator sent Respondent a letter regarding the
15 Brown matter. The letter was sent to Respondent at her official membership address, as well as the
16 Steinbeck address. The letters were mailed by first-class mail, postage prepaid, by depositing them
17 for collection by the United States Postal Service in the ordinary course of business on or about the
18 date of the letter. The postal service returned the letter that was sent to Respondent's membership
19 records address with a notation that she had moved and left no forwarding address. The postal service
20 did not return the letter sent to Respondent at the Steinbeck address as undeliverable or for any other
21 reason.³

22 Respondent received the letter of the investigator, which requested that Respondent respond
23 in writing to specific allegations of misconduct made by Brown. However, Respondent did not
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25 ³The Court notes that all mail sent to Respondent at her official address was returned by
26 the postal service with a notation that Respondent has moved and left no forwarding address.
27 However, mail sent to the Steinbeck address, which is believed to be her residence, was returned
28 as "unclaimed" when sent by certified mail, but was not returned when sent by regular mail. The
Court, therefore, is convinced that Respondent is aware of these proceedings despite the returned
mail.

1 respond to the investigator's letter or otherwise communicate with the investigator regarding the
2 Brown matter.

3 On December 15, 2003, the investigator wrote to Respondent again regarding the Brown
4 matter, asking for a written response to the allegations of misconduct. The letter was placed in a
5 sealed envelope addressed to Respondent at the Steinbeck address, and was mailed by first-class
6 mail, postage prepaid, by depositing it for collection by the United States Postal Service in the
7 ordinary course of business on or about the date of the letter. The postal service did not return the
8 letter as undeliverable or for any other reason.

9 Respondent received the letter of the investigator asking about Respondent's handling of the
10 Brown matter. However, Respondent did respond to the investigator's letter or otherwise
11 communicate with the investigator

12 **Count 1: Rules of Professional Conduct, rule 3-110(A) (Failure to Perform)**

13 The State Bar proved by clear and convincing evidence that Respondent wilfully violated rule
14 3-110(A). Rule 3-110(A) provides that "[a] member shall not intentionally, recklessly, or repeatedly
15 fail to perform legal services with competence." By not filing Brown's Application for
16 Naturalization, and by failing to perform any services on behalf of Brown, Respondent recklessly,
17 repeatedly or intentionally failed to perform legal service with competence in wilful violation of rule
18 3-1110(A).

19 **Count 2: Section 6068(m) (Failure to Respond to Client Inquiries)**

20 The State Bar proved by clear and convincing evidence that Respondent wilfully violated
21 section 6068(m), which requires an attorney to respond promptly to reasonable status inquiries of
22 clients and to keep clients reasonably informed of significant developments in their cases.
23 Respondent wilfully violated this section by failing to respond to any of Brown's repeated telephone
24 calls seeking information regarding the status of his application.

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1 Counts 3 & 4: rules 3-700(A)(2) (Improper Withdrawal From Employment) and 3-700(D)(1)
2 (Failure to Release File)⁴

3 Rule 3-700(A)(2) provides that an attorney shall not withdraw from employment until he or
4 she has taken reasonable steps to avoid reasonably foreseeable prejudice to the rights of the client,
5 including but not limited to, complying with rule 3-700(D). By agreeing to represent Brown in
6 applying for naturalization, and then taking no action on his behalf, and ceasing to communicate at all
7 with him, including failing to respond to his numerous telephone messages, and moving her law office
8 with no notice to Brown, Respondent effectively withdrew from representation of Brown.

9 Respondent took no steps to avoid reasonably foreseeable prejudice to the clients, including giving
10 notice of her withdrawal and returning the client's file so he could employ other counsel. Thus, the
11 State Bar proved by clear and convincing evidence that Respondent wilfully violated rule 3-700(A)(2).

12 Rule 3-700(D)(1) requires an attorney to promptly release to the client, at the request of the
13 client, all of the client's papers and property. By not releasing Brown's client file, Respondent failed
14 to promptly release the clients' file, upon request. However, Respondent is also charged with a
15 violation of rule 3-700(A)(2), which mandates compliance with rule 3-700(D)(1). Thus, an attorney's
16 failure to promptly release a client's file in accordance with the rule 3-700(D)(1), may be at least a
17 portion of the conduct disciplinable as a violation of rule 3-700(A)(2) which prohibits prejudicial
18 withdrawal. In this instance, Brown sent a letter to Respondent terminating Respondent's services
19 and requesting the return of Brown's file. Respondent did not respond to the letter, and in addition,
20 Respondent did not return Brown's file. Respondent's failure to respond to the subject letter and to
21 return Brown's file was relied on as part of the basis for finding that Respondent violated the rule
22 prohibiting prejudicial withdrawal. Therefore, the Court will not use that same misconduct to find a
23 separate violation of the rule 3-700(D)(1) requiring release of client files. (*In the Matter of Dahlz*
24 (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269, 280.) The Court finds no violation of rule 3-
25 700(D)(1).

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28 ⁴The Court combines counts three and four in its analysis because, in part, identical
conduct is the basis for charges under both rule 3-700(D)(1) and 3-700(A)(2).

1 **Count 5: rule 3-700(D)(2) (Failure to Return Unearned Fee)**

2 Rule 3-700(D)(2) requires an attorney, upon termination of employment, to promptly refund
3 any part of a fee paid in advance that has not been earned. Respondent failed to perform any services
4 on behalf of Brown. Respondent, therefore, did not earn any of the fee paid by Brown. Upon
5 termination of Respondent's employment, Respondent should have promptly refunded the \$1,250.00
6 paid as an advance fee. Respondent failed to return any money to Brown. Thus, Respondent failed
7 to refund a fee paid in advance that had not been earned, in wilful violation of rule 3-700(D)(2).

8 **Count 6: rule 4-100(B)(3) (Failure to Account)**

9 Rule 4-100(B)(3) requires an attorney to maintain complete records of all funds of a client
10 coming into the possession of the attorney, and to render an appropriate accounting to the client
11 regarding the funds. When Brown terminated Respondent's employment, he requested, among other
12 things, that Respondent render an accounting for the money advanced as fees. Respondent was
13 required to give Brown an accounting and to return to Brown any money that was not earned.
14 Respondent did not account for the \$1,250.00 that Brown paid to her at the outset of her employment.
15 Thus, the State Bar proved by clear and convincing evidence that Respondent failed to render an
16 accounting to Brown regarding the money paid to Respondent as an advanced fee, in wilful violation
17 of rule 4-100(B)(3).

18 **Count 7: Business and Profession Code, Section 6068(i) (Failure to Cooperate)**

19 The State Bar proved by clear and convincing evidence that Respondent wilfully violated
20 section 6068(i), which requires an attorney to cooperate with and participate in a State Bar disciplinary
21 investigation or proceeding. Respondent wilfully violated this section by failing to respond to the
22 November 24, 2003, and December 15, 2003, letters of the investigator requesting a written response
23 to the allegations of misconduct being investigated in connection with the Brown matter.

24 **IV. MITIGATING AND AGGRAVATING CIRCUMSTANCES**

25 **Mitigation**

26 Respondent bears the burden of presenting and proving mitigating circumstances by clear and
27 convincing evidence. (Rule of Proc. of State Bar, Title IV, Standards of Attorney Sanctions for
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1 Professional Misconduct, Standard 1.2(e).⁵ As Respondent's default was entered in this matter,
2 Respondent failed to introduce any mitigating evidence. The Court takes judicial notice of the
3 membership records of the State Bar which show that Respondent has no prior record of discipline.
4 (Evidence Code §452.) Respondent was admitted to the practice of law in August 1989, and the
5 misconduct found herein began in June 2003. Therefore, Respondent had a blemish-free period of
6 approximately fourteen years. The Court accords mitigating weight to Respondent's lack of a prior
7 record of discipline.

8 **Aggravation**

9 Respondent's misconduct evidences multiple acts of wrongdoing. (Standard 1.2(b)(ii).)
10 Respondent failed to perform the legal services for which she was hired; improperly withdrew from
11 employment; failed to promptly refund unearned fees; failed to respond to the client's status inquiries;
12 failed to account for advanced fees upon termination of employment; and failed to cooperate in the
13 eight investigations of the State Bar.

14 Respondent caused significant harm to her client, which is an aggravating circumstance
15 pursuant to standard 1.2(b)(iv). Specifically, after waiting several months for Respondent to file his
16 application for naturalization, the client was forced to find other counsel to handle the matter.
17 Respondent simply abandoned the client, ignoring numerous telephone messages and a termination
18 letter sent by the client.

19 Respondent has demonstrated indifference toward rectification of or atonement for the
20 consequences of her misconduct. (Standard 1.2(b)(v).) Respondent's continued failure to return
21 Brown's papers, money and file, even after the complaint to the State Bar, demonstrates her complete
22 indifference toward rectification for the consequences of her misconduct.

23 Respondent's failure to participate in this proceeding prior to the entry of her default
24 demonstrates a lack of cooperation, and is an aggravating circumstance pursuant to standard
25 1.2(b)(vi).

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28 ⁵All further references to standards are to the Standards for Attorney Sanctions for
Professional Misconduct, Title IV, Rules of Procedure.)

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V. DISCUSSION

In determining the appropriate discipline to recommend in this matter, the Court looks at the purposes of disciplinary proceedings and sanctions. Standard 1.3 sets forth the purposes of disciplinary proceedings and sanctions as “the protection of the public, the courts and the legal profession; the maintenance of high professional standards by attorneys and the preservation of public confidence in the legal profession.”

In addition, standard 1.6(b) provides that the specific discipline for the particular violation found must be balanced with any mitigating or aggravating circumstances with due regard for the purposes of imposing disciplinary sanctions.

In connection with a single client matter, Respondent has been found culpable of various violations of the rules and statutes governing attorney conduct. The applicable standards provide for the imposition of a broad range of sanctions ranging from reproof to disbarment. (See standards 2.2(b), 2.4(b), 2.6, and 2.10.) In addition, standard 1.6(a) states, in pertinent part, “If two or more acts of professional misconduct are found or acknowledged in a single disciplinary proceeding, and different sanctions are prescribed by these standards for said acts, the sanction imposed shall be the more or most severe of the different applicable sanctions.” In this instance, the most severe sanctions are standard 2.2(b), which provides for at least a three month actual suspension, irrespective of mitigating circumstances, and standard 2.6, which provides for suspension or disbarment, depending on the gravity of the offense.

The standards, however, are only guidelines and do not mandate the discipline to be imposed (*In the Matter of Moriarty* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 245, 250-251.) “[E]ach case must be resolved on its own particular facts and not by application of rigid standards.” (Id. at p. 251.)

The State Bar recommends, inter alia, that Respondent be actually suspended from the practice of law for thirty days and until she makes restitution to the client, citing as authority *In the Matter of Lilley* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 476, and *In the Matter of Greenwood* (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 831.

In *Lilley*, a default proceeding involving a single client matter, the attorney abandoned the client, failed to cooperate with the State Bar’s investigation, and failed to submit a change of address

1 to the State Bar. He had no prior discipline in nine years of practice at the time of the misconduct.
2 The attorney was suspended for one year, execution of the suspension was stayed, and he was placed
3 on probation for one year, with 30 days of actual suspension.

4 In *Greenwood*, the attorney was suspended for eighteen months, execution of the suspension
5 was stayed, and he was placed on probation for two years, with ninety days actual suspension, as a
6 result of his abandonment of two clients, his failure to cooperate with the State Bar's investigations,
7 and in one of the matters, his failure to comply with a court order to respond to discovery requests.
8 His six years of practice without discipline was found to not be mitigating.

9 In this default proceeding, Respondent has been found culpable of the following misconduct
10 in connection with a single client matter: failure to perform the legal services for which she was hired,
11 failure to communicate with the client, followed by improper withdrawal from employment, and
12 failure to return unearned fees and to account to the client for the advanced fees. In addition, she failed
13 to cooperate with the State Bar's investigation. In mitigation, she has a blemish-free record for
14 fourteen years. In aggravation, the Court found she engaged in multiple acts of wrongdoing, caused
15 significant harm to her client, demonstrated indifference toward rectification of or atonement for the
16 consequences of her misconduct; and failed to participate in this matter prior to the entry of her default.

17 Respondent's misconduct and lack of participation in this matter raises concerns about her
18 ability or willingness to comply with her ethical responsibilities to her clients and to the State Bar.
19 Respondent has offered this Court no explanation regarding this client matter where she literally
20 walked away from her professional obligations. The Court is without information about the
21 circumstances that led to Respondent's misconduct, or equally important, about any rehabilitative
22 efforts on her part. In fact, Respondent has not even bothered to change her membership record
23 address, although it is apparent she moved from that address some time ago. Therefore, the Court
24 cannot say that Respondent is unlikely to repeat the misconduct that has been found in the matter now
25 before the Court.

26 After considering the misconduct found, the aggravating circumstances that are present, and
27 the one mitigating factor, the Court is convinced that suspension is warranted in order to protect the
28 public.

1 **VI. DISCIPLINE RECOMMENDATION**

2 Accordingly, it is hereby recommended that Respondent REGINA D. STEELE be
3 suspended from the practice of law for two (2) years, that said suspension be stayed, and that she
4 be actually suspended from the practice of law for thirty (30) days and until she makes restitution
5 to Michael J. Brown (or the Client Security Fund, if appropriate) in the amount of \$1,250.00 plus
6 10% interest per annum from June 19, 2003, and furnishes satisfactory proof thereof to the State
7 Bar Office of Probation; and until the State Bar Court grants a motion to terminate Respondent's
8 actual suspension at its conclusion or upon such later date ordered by the Court. (Rule 205(a), (c),
9 Rules Proc. of State Bar.)

10 It is also recommended that she be ordered to comply with the conditions of probation, if
11 any, hereinafter imposed by the State Bar Court as a condition for terminating her actual
12 suspension.

13 If the period of actual suspension reaches or exceeds two years, it is further recommended
14 that Respondent remain actually suspended until she has shown proof satisfactory to the State Bar
15 Court of rehabilitation, fitness to practice, and learning and ability in the general law pursuant to
16 Standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct. (See also, rule
17 205(b).)

18 It is also recommended that if the period of actual suspension reaches or exceeds ninety
19 (90) days, Respondent be ordered to comply with the requirements of rule 955 of the California
20 Rules of Court within 120 calendar days of the effective date of the Supreme Court order in this
21 matter, and file the affidavit provided for in paragraph (c) within 130 days of the effective date of
22 the order showing her compliance with said order. Failure to comply with rule 955 could result in
23 disbarment. (*Bercovich v. State Bar* (1990) 50 Cal.3d 116, 131.) Respondent is required to file a
24 rule 955(c) affidavit even if she has no clients to notify. (*Powers v. State Bar* (1988) 44 Cal.3d
25 337, 341.)


26 It is further recommended that Respondent be ordered to take and pass the Multistate
27 Professional Responsibility Examination given by the National Conference of Bar Examiners
28 within one year from the effective date of the Supreme Court's order or during the period of her

1 actual suspension, whichever is longer, and furnish satisfactory proof of such to the State Bar
2 Office of Probation within said period.

3 **VII. COSTS**

4 The Court recommends that costs be awarded to the State Bar pursuant to Business and
5 Professions Code section 6086.10, and that those costs be payable in accordance with section
6 6140.7.

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8 Dated: September 22, 2004



RICHARD A. HONN
Judge of the State Bar Court

CERTIFICATE OF SERVICE
[Rule 62(b), Rules Proc.; Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court. 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 22, 2004, I deposited a true copy of the following document(s):

DECISION, filed September 22, 2004

in a sealed envelope for collection and mailing on that date as follows:

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

**REGINA D STEELE
ATTORNEY AT LAW
1081 CAMINO DEL RIO S #205
SAN DIEGO, CA 92108**

**REGINA D STEELE
ATTORNEY AT LAW
7291 STEINBECK AVE
SAN DIEGO, CA 92122**

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

Timothy G. Byer, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **September 22, 2004.**



Milagro del R. Salmeron
Case Administrator
State Bar Court