

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – LOS ANGELES

In the Matter of) Case Nos.: **09-O-19184 (10-O-00281)-RAH**
)
DEB CELESTE PEDERSDOTTER,) **DECISION AND ORDER OF**
) **INVOLUNTARY INACTIVE**
) **ENROLLMENT**
)
Member No. **131815,**)
)
A Member of the State Bar.)

Respondent Deb Celeste Pedersdotter (respondent) was charged with several violations of the Business and Professions Code and the Rules of Professional Conduct in connection with two client matters. She failed to file a response to the first amended notice of disciplinary charges (NDC), and her default was entered. The Office of the Chief Trial Counsel (State Bar) filed a petition for disbarment under the Rules of Procedure of the State Bar, rule 5.85.¹

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 180 days, the State Bar will file a petition requesting the court to recommend the attorney's disbarment.²

¹ Unless otherwise indicated, all references to rules are to this source.

² 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(E)(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 December 14, 1987, and has been a member since then.

Procedural Requirements Have Been Satisfied

On March 8, 2011, the State Bar filed and properly served the first amended NDC on respondent by certified mail, return receipt requested, at her membership records address. The first amended NDC notified respondent that her failure to participate in the proceeding would result in a disbarment recommendation. (Rule 5.41.) The certified mail return receipt was returned to the State Bar signed by Anne Pastel.

Respondent had actual notice of these proceedings as she participated in a status conference held on March 8, 2011. Respondent also attempted to file an answer to the first amended NDC on April 18, 2011, but it was not filed as it did not meet filing requirements.

Respondent thereafter failed to file a response to the first amended NDC. On April 26, 2011, the State Bar 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 State Bar deputy trial counsel declaring the additional steps taken to provide notice to respondent. (Rule 5.80.) The motion also notified respondent that if she did not timely move to set aside her default, the court would recommend her disbarment. Respondent did not file a response to the motion, and her default was entered on May 24, 2011. The order entering the default was served on respondent at her 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, and she has remained inactively enrolled since that time. The return receipt was returned to the court bearing the signature of someone other than respondent.

Respondent did not seek to have her default set aside or vacated. (Rule 5.83(C)(1) [attorney has 180 days to file motion to set aside default].) On January 5, 2012, the State Bar filed the petition for disbarment. As required by rule 5.85(A), the State Bar reported in the petition that: (1) the State Bar has had contact with respondent since the default was entered; on June 3, 2011, the Supervising Trial Counsel assigned to this matter received a telephone call from respondent in which respondent acknowledged that she was aware of the entry of default against her and her inactive enrollment; (2) there are five other disciplinary investigation matters pending against respondent; (3) respondent has no prior record of discipline; and (4) the Client Security Fund (CSF) has not made any payments resulting from respondent's conduct; however, there is a CSF claim currently pending. 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 February 2, 2012.

The Admitted Factual Allegations Warrant the Imposition of Discipline

Upon entry of 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 of the rule and statutory violations as charged and, therefore, violated a statute, rule or court order that would warrant the imposition of discipline. (Rule 5.85, subd. (E)(1)(d).)

1. Case Number 09-O-19184 (Menefee Matter)

Count One - respondent violated section 6068, subdivision (m), of the Business and Professions Code³ (failing to respond to reasonable client status inquiries), by not returning her client's telephone calls and by not providing her client with any information regarding the status of her case.⁴

Count Two – respondent willfully violated rule 4-100(B)(3) of the Rules of Professional Conduct (RPC) (failing to render appropriate accounts of client funds) by not providing her client with an accounting of all the advanced attorney fees.

Count Three – respondent willfully violated rule 3-700(D)(2) of the RPC (failing to refund unearned fees) by not refunding to her client any portion of the unearned attorney fees.

Count Four – respondent violated section 6068, subdivision (i) (failing to cooperate/participate in a disciplinary investigation) by not responding to State Bar letters and by not otherwise responding to allegations as requested by the State Bar investigator.

2. Case Number 10-O-00281 (Brashear Matter)

Count Five – respondent willfully violated rule 3-110(A) of the RPC (failing to perform legal services with competence) by not replying to, or providing her client with any advice or guidance on how to respond to, a letter from an opposing party.

Count Six – respondent violated section 6068, subdivision (m) (failing to respond to reasonable client status inquiries) by not replying to emails and a telephone call, and by ceasing all communications with her client.

³ Unless otherwise indicated, all further references to statutes are to the Business and Professions Code.

⁴ The court, however, does not base culpability on respondent's failure to respond to her client's letter requesting a refund of attorney fees, as the letter does not constitute a status inquiry.

Count Seven – respondent willfully violated rule 3-700(D)(2) (failing to refund unearned fees) by not refunding to her client any portion of the unearned advanced fees.

Count Eight - respondent violated section 6068, subdivision (i) (failing to cooperate/participate in a disciplinary investigation) by not responding to State Bar letters and by not otherwise responding to the allegations as requested by the State Bar investigator.

Disbarment is Mandated under the Rules of Procedure

Based on the above, the court concludes that the requirements of rule 5.85(E) have been satisfied, and respondent’s disbarment must be recommended. In particular:

- (1) the first amended 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, as she participated in a status conference and attempted to file an answer to the first amended NDC; respondent was also aware that her default had been entered;
- (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 must recommend her disbarment.

RECOMMENDATION

Disbarment

The court recommends that respondent Deb Celeste Pedersdotter be disbarred from the practice of law in the State of California and that her name be stricken from the roll of attorneys.

Restitution

The court also recommends that respondent be ordered to make restitution to the following payees:

- (1) Deborah Menefee in the amount of \$2,600 plus 10 percent interest per year from September 21, 2009; and
- (2) Beverly Brashear in the amount of \$1,000 plus 10 percent interest per year from November 10, 2009.

Any restitution owed to the Client Security Fund is enforceable as provided in Business and Professions Code section 6140.5, subdivisions (c) and (d).

Rule 9.20

The court also recommends that respondent be ordered to comply with the requirements of rule 9.20 of the California Rules of Court, 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 Deb Celeste Pedersdotter, State Bar number 131815, be involuntarily enrolled

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as an inactive member of the State Bar of California, effective three calendar days after the service of this decision and order. (Rules Proc. of State Bar, rule 5.111(D).)

Dated: April _____, 2012

RICHARD A. HONN
Judge of the State Bar Court

