

STATE BAR COURT OF CALIFORNIA  
HEARING DEPARTMENT – SAN FRANCISCO

In the Matter of	)	Case No.: <b>11-O-11333-LMA</b>
	)	
<b>MARGARET JO LOWRIE,</b>	)	<b>DECISION AND ORDER OF</b>
	)	<b>INVOLUNTARY INACTIVE</b>
<b>Member No. 202253,</b>	)	<b>ENROLLMENT</b>
	)	
<u>A Member of the State Bar.</u>	)	

Respondent Margaret Jo Lowrie (respondent) was charged with failing to perform legal services with competence, aiding the unauthorized practice of law, failing to release a file, failing to refund unearned fees, and committing an act involving moral turpitude, dishonesty or corruption in one client matter. She failed to participate either in person or through counsel, and her default was entered. The Office of the Chief Trial Counsel (State Bar) 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 notice of disciplinary charges (NDC),

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<sup>1</sup> Unless otherwise indicated, all references to rules are to this source.

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.<sup>2</sup>

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 July 14, 1999, and has been a member since then.

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

On October 25, 2011, the State Bar filed and properly served the NDC on respondent by certified mail, return receipt requested, at 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 was not returned to the State Bar.

Thereafter, Deputy Trial Counsel Bruce Robinson (DTC Robinson) attempted to reach respondent by telephone at a number obtained through an internet search; at respondent's cell phone number and at another number that she had previously given to the State Bar Intake Department; at a telephone number which was set forth on respondent's cell phone voice message;<sup>3</sup> and at another telephone number obtained through an internet search.

Respondent failed to file a response to the NDC. On December 22, 2011, the State Bar properly filed and served a motion for entry of respondent's default. The motion complied with

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<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(E)(2).)

<sup>3</sup> When DTC Robinson telephoned respondent's cell phone number, he heard a message which informed callers, in part, that it was best to call Margaret on this other number. This number, however, did not include an area code. DTC Robinson tried to reach respondent at this number using both the 410 and 925 area codes.

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 January 9, 2012. 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.

Respondent also 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 July 30, 2012, the State Bar filed and properly served the petition for disbarment. As required by rule 5.85(A), the State Bar reported in the petition that: (1) the State Bar has not had any contact with respondent since her default was entered; (2) there is one pending disciplinary matter and 13 pending investigations against respondent; (3) respondent has no prior record of discipline; and (4) the Client Security Fund has not made any payments resulting from respondent's conduct; however, there are four pending applications. 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 August 27, 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 as charged and, therefore, violated a statute, rule or court order that would warrant the imposition of discipline. (Rule 5.85(E)(1)(d).)

**Case Number 11-O-11333 (Malang Matter)**

Count One – respondent willfully violated rule 3-110(A) of the Rules of Professional Conduct (failing to perform legal services with competence) by failing to perform any work of substantive value in her client’s bankruptcy matter and failing to file a bankruptcy petition on behalf of her client.

Count Two – respondent willfully violated rule 1-300(A) of the Rules of Professional Conduct (aiding the unauthorized practice of law) by having her paralegal handle all aspects of the client’s case, including consulting with the client to secure legal services and counseling and advising the client regarding legal matters.

Count Three – respondent willfully violated rule 3-700(D)(1) of the Rules of Professional Conduct (failure to return client papers/property) by failing, upon her client’s request, to give her client his file after respondent’s employment was terminated.

Count Four- respondent willfully violated rule 3-700(D)(2) of the Rules of Professional Conduct (failing to promptly refund unearned fees) by failing to return unearned fees to her client after respondent’s services were terminated.

Count Five – respondent willfully violated Business and Professions Code section 6106 (moral turpitude, dishonesty or corruption) by preparing a declaration for her paralegal in support of respondent’s response to a State Bar inquiry after her paralegal refused to do so; signing her paralegal’s name to the declaration without his authority; failing to inform the State Bar that she signed her paralegal’s name without his authority; and misrepresenting the statements in the declaration to be those of her paralegal.

### **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 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, as the State Bar filed and properly served the NDC on respondent, and the State Bar attempted to reach respondent by telephone at six different telephone numbers.

(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 must recommend her disbarment.

### **RECOMMENDATION**

#### **Disbarment**

The court recommends that respondent Margaret Jo Lowrie 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 Ricardo Malang in the amount of \$1,500 plus 10 percent interest per year from June 29, 2010. Any restitution owed to the Client Security Fund is enforceable as provided in Business and Professions Code section 6140.5, subdivisions (c) and (d).

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**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 Margaret Jo Lowrie, State Bar number 202253, 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 \_\_\_\_, 2012

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LUCY ARMENDARIZ  
Judge of the State Bar Court