

STATE BAR COURT OF CALIFORNIA  
HEARING DEPARTMENT – SAN FRANCISCO

In the Matter of ) Case Nos.: **14-O-00401-LMA (14-O-01431;**  
) **14-O-01768)**  
**LESLEY ANNE REGINA,** )  
) **DECISION AND ORDER OF**  
**Member No. 209541,** ) **INVOLUNTARY INACTIVE**  
) **ENROLLMENT**  
A Member of the State Bar. )

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Respondent Lesley Anne Regina (respondent) was charged with 11 counts of violations of the Rules of Professional Conduct and the Business and Professions Code<sup>1</sup> involving three clients. 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>2</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 further references to section(s) refer to provisions of the Business and Professions Code.

<sup>2</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 90 days, the State Bar will file a petition requesting the court to recommend the attorney's disbarment.<sup>3</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 December 4, 2000, and has been a member since then.

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

On July 1, 2014, the State Bar filed and properly served the NDC on respondent by certified mail, return receipt requested, to her membership records address. A courtesy copy of the NDC was also sent to her official address by regular first class mail. The NDC notified respondent that her failure to participate in the proceeding would result in a disbarment recommendation. (Rule 5.41.) The NDCs sent to her official address were returned by the U.S. Postal Service as undeliverable.

In addition, reasonable diligence was also used to notify respondent of this proceeding. The State Bar attempted to locate respondent by calling opposing and successor counsel in the matters alleged in the NDC; by contacting a deputy district attorney in the Alameda County regarding respondent's next scheduled court appearances; by checking the Contra Costa County Superior Court docket for matters for which respondent was the attorney of record; by visiting respondent's office; by contacting respondent's paralegal; and by contacting respondent's landlord who last saw her in October 2013. The State Bar attempted to reach respondent at her

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<sup>3</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).)

official membership records telephone number and at another telephone number found through a webpage advertisement. The State Bar was unable to reach her.

To date, respondent has not contacted the State Bar.

Respondent failed to file a response to the NDC. On July 28, 2014, 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 August 13, 2014. 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. She has remained inactively enrolled since that time.

Respondent 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 December 22, 2014, the State Bar filed and properly served the petition for disbarment on respondent at her official membership records address. As required by rule 5.85(A), the State Bar reported in the petition that (1) there has been no contact with respondent since her default was entered; (2) there are other disciplinary matters pending against respondent; (3) respondent has no prior record of discipline; and (4) the Client Security Fund has not made any payments as a result of respondent's conduct; but a number of claims are 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 January 20, 2015.

### **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(F)(1)(d).)

#### **1. Case Number 14-O-00401 (Livsey Matter)**

Count 1 – Respondent willfully violated rule 3-110(A) of the Rules of Professional Conduct (failure to perform legal services with competence) by failing to communicate with opposing counsel, failing to properly substitute out of the marital dissolution matter, failing to resubmit a corrected dissolution judgment, and failing to take any further action on behalf of her client, Donald Livsey.

Count 2 – Respondent willfully violated rule 3-700(A)(2) of the Rules of Professional Conduct (improper withdrawal from employment) by failing to take reasonable steps to avoid reasonably foreseeable prejudice to the rights of her client and thereafter failing to inform the client that she was withdrawing from employment.

Count 3 – Respondent willfully violated rule 3-700(D)(2) of the Rules of Professional Conduct (failure to return unearned fees) by failing to promptly refund any part of the \$5,000 in unearned fees upon her termination of employment on October 29, 2013.

**2. Case Number 14-O-01431 (Kobashikawa Matter)**

Count 4 – Respondent willfully violated rule 3-110(A) of the Rules of Professional Conduct by failing to perform any legal services of value on behalf of her client, Annie Meza Kobashikawa.

Count 5 – Respondent willfully violated section 6068, subdivision (m) (failure to respond to reasonable client status inquiries and to inform client of significant development), by failing to respond to her client's status inquiries.

Count 6 – Respondent willfully violated rule 3-700(A)(2) of the Rules of Professional Conduct by failing to take any action on the client's behalf after July 10, 2013, and thereafter failing to inform the client that she was withdrawing from employment.

Count 7 – Respondent willfully violated rule 3-700(D)(2) of the Rules of Professional Conduct by failing to promptly refund any part of the \$4,259.75 in unearned fees upon her termination of employment on October 29, 2013.

**3. Case Number 14-O-01768 (Conder Matter)**

Count 8 – Respondent willfully violated rule 3-700(D)(2) of the Rules of Professional Conduct by failing to promptly refund any part of the \$900 in unearned fees upon her termination of employment on October 29, 2013 to her client, David Conder.

Count 9 – Respondent willfully violated section 6068, subdivision (m), by failing to respond to her client's status inquiries.

Count 10 – Respondent willfully violated rule 3-700(A)(2) of the Rules of Professional Conduct by failing to take any action on the client's behalf, and thereafter failing to inform the client that she was withdrawing from employment.

#### **4. Case Numbers 14-O-00401; 14-O-01431; and 14-O-01768**

Count 11 – Respondent willfully violated section 6068, subdivision (j) (failure to update membership address), by failing to notify the State Bar of the change in her address and telephone number when she moved out of her office in October 2013.

#### **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) reasonable diligence was used to notify respondent of the proceedings prior to the entry of her default, as the NDC was served on respondent at her membership records address and the State Bar attempted to locate respondent by telephone and by contacting various parties, including her landlord, paralegal, opposing counsel, successor counsel, and the deputy district attorney;

(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 recommends disbarment.

### **RECOMMENDATION**

#### **Disbarment**

The court recommends that respondent Lesley Anne Regina 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) Donald Livsey in the amount of \$5,000 plus 10 percent interest per year from October 29, 2013;
- (2) Annie Meza Kobashikawa in the amount of \$4,259.75 plus 10 percent interest per year from October 29, 2013; and
- (3) David Conder in the amount of \$900 plus 10 percent interest per year from October 29, 2013.

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

## **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 Lesley Anne Regina, State Bar number 209541, 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: April \_\_\_\_\_, 2015

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LUCY ARMENDARIZ  
Judge of the State Bar Court