

PUBLIC MATTER

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – LOS ANGELES

FILED
SEP 09 2016
STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

In the Matter of)	Case Nos.: 14-O-03877-WKM
)	
ALEXANDRA R. EPAND,)	DECISION AND ORDER OF
)	INVOLUNTARY INACTIVE
Member No. 191733,)	ENROLLMENT
)	
<u>A Member of the State Bar.</u>)	

Respondent Alexandra R. Epand (respondent) is charged with two violations of the Rules of Professional Conduct. Respondent failed to appear at trial, and her default was entered. Thereafter, the Office of Chief Trial Counsel (OCTC) filed a petition for disbarment under rule 5.85 of the Rules of Procedure of the State Bar.¹

Rule 5.85 provides the procedure to follow when an attorney fails to appear at trial after receiving adequate notice and opportunity. The rule provides that, if an attorney's default is entered for failing to appear at trial and if the attorney fails to have the default set aside or vacated within 45 days, then the OCTC will file a petition requesting that the State Bar Court recommend the attorney's disbarment.²

¹ Unless otherwise indicated, all further references to rules are to the Rules of Procedure of the State Bar of California.

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(F)(2).)



In the instant case, the court concludes that all of 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 the practice of law in California on December 4, 1997. She has continuously been a member of the State Bar of California since that time.

Procedural Requirements Have Been Satisfied

On February 24, 2015, OCTC filed and properly served a notice of disciplinary charges (NDC) on respondent in case number 14-O-03877. OCTC served the NDC on respondent at her membership records address by certified mail, return receipt requested. Respondent filed an answer to the NDC on April 9, 2015.

On June 22, 2015, the court held a status conference that respondent failed to attend. The court set the trial for two days, commencing on August 4, 2015, at 10:00 a.m. On June 23, 2015, the court filed an order setting forth the forgoing trial date in this matter. The order was properly served on respondent.

Respondent failed to appear for trial on August 4, 2015. The court entered respondent's default in an order filed on August 4, 2015. The order was properly served on respondent.

OCTC filed a petition for disbarment on October 2, 2015. Respondent filed a motion to vacate the default on October 5, 2015. OCTC opposed the motion on October 22, 2015. On November 6, 2015, the court permitted respondent to file a supplemental declaration to her October 2, 2015 motion, and then granted respondent's motion to set aside the default on December 3, 2015.

Respondent appeared at a status conference on December 15, 2015. The court set this matter for a two-day trial, commencing on February 4, 2016, at 10:00 a.m. On December 16,

2015, the court filed a status conference order setting forth the forgoing trial date in this matter. The order was properly served on respondent.

On January 26, 2016, respondent appeared at a pretrial conference where the court continued the trial to February 22, 2016, at 10:00 a.m. The trial was set for two days. On January 27, 2016, the court filed an order setting forth the forgoing trial date in this matter. The order was properly served on respondent by first-class mail, postage prepaid. (Rule 5.81(A)(2)(a).)

OCTC was present for trial on February 22, 2016, but respondent failed to appear. The court entered respondent's default in an order filed on February 22, 2016. The order was properly served on respondent at her membership records address by certified mail, return receipt requested. (Rule 5.81(B).) The order notified respondent that, if she did not timely move to set aside her default, the court would recommend her disbarment. The order also placed respondent on involuntary inactive status under Business and Professions Code section 6007, subdivision (e),³ effective three days after service of the order, and respondent has remained inactively enrolled since that time.

Respondent did not timely seek to have her default set aside or vacated. (Rule 5.83(C)(2) [attorney has 45 days after order entering default is served to file motion to set aside default].) On June 7, 2016, OCTC filed and properly served the petition for disbarment on respondent at her membership records address. As required by rule 5.85(A), the OCTC reported in the petition that: (1) OCTC had no contact with respondent since the default was entered;⁴ (2) no

³ All further references to sections are to the Business and Professions Code.

⁴ Respondent filed a resignation with charges pending in the Review Department on March 1, 2016. To facilitate the resignation process, OCTC e-mailed respondent a stipulation as to facts and conclusions of law on March 16, 2016. Respondent did not respond to OCTC's email. On June 3, 2016, the Review Department recommended declining respondent's resignation.

disciplinary matters or disciplinary investigations were pending against respondent; (3) respondent has no prior record of discipline; and (4) the Client Security Fund has not paid out any claims resulting from respondent's conduct.

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 July 8, 2016.

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).)

Case Number 14-O-03877 (The Talbot Matter)

Count One – Respondent willfully violated rule 1-300(B) of the Rules of Professional Conduct when she was hired in North Carolina to perform legal services related to the defense of an action for breach of a promissory note, thereby practicing law in North Carolina in violation of N.C. Gen. State. Sections 84-2.1, 4, and 5 (unauthorized practice of law), and thereby willfully violating the regulations of the profession in North Carolina.

Count Two – Respondent willfully violated rule 4-200(A) of the Rules of Professional Conduct by charging and collecting a \$2,500 fee from a North Carolina client for legal services when she was not licensed to practice law in North Carolina.

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) Respondent had actual notice of this proceeding and was properly given notice of the trial date before the entry of the default;

(3) the default was properly entered under rule 5.81; 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 appear for trial 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 Alexandra R. Epand, State Bar number 191733, 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 further recommends that Alexandra R. Epand, be ordered to make restitution to Michael Talbot in the amount of \$2,500 plus 10 percent interest per year from March 7, 2014. 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 and that the costs be 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 Alexandra R. Epand, State Bar number 191733, 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. (Rules Proc. of State Bar, rule 5.111(D).)

Dated: September 8, 2016



W. KEARSE MCGILL
Judge of the State Bar Court

CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. 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 9, 2016, I deposited a true copy of the following document(s):

DECISION AND ORDER OF INVOLUNTARY INACTIVE ENROLLMENT

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

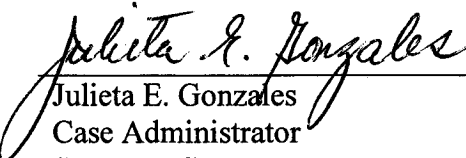
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

ALEXANDRA R. EPAND
4470 W SUNSET BLVD
98675
LOS ANGELES, CA 90027

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

Hugh G. Radigan, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on September 9, 2016.



Julieta E. Gonzales
Case Administrator
State Bar Court