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STATE BAR COURT
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LOS ANGELES

PUBLIC MATTER

STATE BAR COURT OF CALIFORNIA HEARING DEPARTMENT – LOS ANGELES

In the Matter of)	Case Nos.: 14-O-04341 (14-O-04583;
)	14-O-04666; 15-O-10779)-YDR
SAQIB A. ZUBERI,)	
)	DECISION AND ORDER OF
Member No. 273389,)	INVOLUNTARY INACTIVE
)	ENROLLMENT
A Member of the State Bar.)	

Respondent Saqib Zuberi ("Respondent") was charged with 12 violations of the Business and Professions Code and the Rules of Professional Conduct. He failed to participate either in person or through counsel, and his default was entered. Thereafter, 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.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 notice of disciplinary charges



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

("NDC") 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.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

Jurisdiction

Respondent was admitted to practice law in this state on December 1, 2010, and has been a member since that date.

Procedural Requirements Have Been Satisfied

On March 27, 2015, the State Bar filed and properly served the NDC on Respondent by certified mail, return receipt requested, at his membership records address. The NDC notified Respondent that his failure to participate in the proceeding would result in a disbarment recommendation. (Rule 5.41.) The State Bar received the return receipt card signed by "Emili Espinoza," but the date of delivery was omitted.

Thereafter, the State Bar took additional steps to notify Respondent about these proceedings. The Deputy Trial Counsel ("DTC") assigned to this matter (1) sent a courtesy copy of the NDC to Respondent by regular first-class mail to Respondent's membership records address; (2) sent an email to Respondent at his membership records email address³ indicating her intent to file a default motion if no response was received by May 1, 2015; (3) attempted to reach Respondent by telephone at his membership records telephone number, leaving a voicemail

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).)

³ Effective February 1, 2010, all attorneys are required to maintain a current email address to facilitate communications with the State Bar. (Cal. Rules of Court, rule 9.7(a)(2).)

message; (4) attempted to reach Respondent at two alternate telephone numbers located through a computer search; and (5) attempted to reach Respondent at his updated membership records telephone number that Respondent changed on May 1, 2015. Additionally, a State Bar investigator conducted a field investigation to locate Respondent and serve him with a letter indicating that a default motion was going to be filed. The additional attempts to contact Respondent were unsuccessful.

Despite the State Bar's efforts, Respondent failed to file a response to the NDC. On May 8, 2015, the State Bar filed a motion for entry of Respondent's default. On May 11, 2015, the State Bar properly served the motion on Respondent at his membership records address. The motion complied with all of 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 he did not timely move to set aside his default, the court would recommend his disbarment. Respondent did not file a response to the motion, and his default was entered on June 2, 2015. The order entering the default was served on Respondent at his 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. He has remained inactively enrolled since that time.

Respondent did not seek to have his default set aside or vacated. (Rule 5.83(C)(1) [attorney has 90 days to file motion to set aside default].)

On September 22, 2015, the State Bar properly filed and served the petition for disbarment on Respondent at his 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 his default was entered; (2) there are other disciplinary matters pending against Respondent; (3) Respondent has two prior disciplinary records; and (4) the Client Security Fund has not paid any claims as a result of Respondent's misconduct. 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 November 3, 2015.

Prior Record of Discipline

Respondent has two prior records of discipline. Pursuant to an order of the Supreme Court filed on July 22, 2014, Respondent was suspended for one year, stayed, and placed on probation for two years. Respondent stipulated to misconduct in two client matters, which included two counts of failing to promptly return unearned fees and two counts of failing to participate in a disciplinary investigation.

In his second prior, pursuant to an order of the Supreme Court filed on July 19, 2015, Respondent was suspended for three years, stayed, and placed on probation for three years subject to conditions including that he be suspended from the practice of law for two years. Respondent stipulated to numerous ethical violations in six client matters, which included failing to perform with competence; failing to return unearned fees, failing to render accountings; charging and collecting fees before completing all services in a loan modification matter; entering into a business transaction with a client without complying with rule 3-300 of the Rules of Professional Conduct; and failing to participate in six disciplinary investigations.

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, except as otherwise noted, and, therefore, violated a statute, rule or court order that would warrant the imposition of discipline. (Rule 5.85(F)(1)(d).)

Case No. 14-O-04341 (The Silva Matter)

Count One – Respondent willfully violated rule 3-110(A) of the Rules of Professional Conduct (failure to perform legal services with competence) by failing to perform any legal services for his client for which he was retained.

Count Two – Respondent willfully violated rule 3-700(D)(2) of the Rules of Professional Conduct (failure to refund unearned fees) by performing no legal services on behalf of his client, thereby earning none of the \$1,500 in advanced fees paid by his client, and thereafter failing to promptly refund his client's unearned fees upon termination of his employment.

Count Three – Respondent willfully violated 3-310(F) of the Rules of Professional Conduct (accepting fees from a non-client) by accepting \$1,500 from a third party as compensation for representing a client without obtaining the client's informed written consent.

Case No. 14-O-04583 (The Brown Matter)

Count Four – The court does not find Respondent culpable of willfully violating rule 3-110(A) of the Rules of Professional Conduct as the facts deemed admitted as a result of the entry of Respondent's default do not support a finding by clear and convincing evidence that Respondent intentionally, repeatedly, or recklessly failed to perform legal services with competence.

Count Five – Respondent willfully violated rule 4-100(A) of the Rules of Professional Conduct (failure to deposit client funds in trust) by receiving \$65,704.47 for the benefit of a client and failing to deposit the funds in a bank account labeled "Trust Account," "Client's Funds Account," or words of similar import.

Count Six – Respondent willfully violated Business and Professions Code⁴ section 6106 (moral turpitude – misappropriation) by dishonestly or gross negligently misappropriating entrusted client funds in the amount of \$67,704.47 for Respondent’s own purposes.

Case No. 14-O-04666 (The Herron Matter)

Count Seven – The court does not find Respondent culpable of willfully violating rule 3-110(A) of the Rules of Professional Conduct as the facts deemed admitted as a result of the entry of Respondent’s default do not support a finding by clear and convincing evidence that Respondent intentionally, repeatedly, or recklessly failed to perform legal services with competence.

Count Eight – Respondent willfully violated rule 3-700(D)(2) of the Rules of Professional Conduct by failing to submit and negotiate a loan modification, filing an incomplete bankruptcy petition causing it to be dismissed and performing no other legal services on behalf of his client, thereby earning none of the \$3,000 in advanced fees paid by his client, and thereafter failing to promptly refund the unearned fees upon termination of his employment.

Count Nine – Respondent willfully violated rule 4-100(B)(3) of the Rules of Professional Conduct (failing to account) by failing to provide his client with an accounting.

Count Ten – Respondent willfully violated section 6106.3, subdivision (a) (violation of Civil Code section 2944.7), by charging and collecting \$3,300 in advanced fees prior to completing all services in a loan modification matter.

Case Nos. 14-O-04341, 14-O-04583, 14-O-04666 (The Disciplinary Investigation Matters)

Count Eleven – Respondent willfully violated section 6068, subdivision (i), by failing to provide a substantive response to three letters and two emails from the State Bar which he

⁴ Unless otherwise indicated, all references to rules are to this source.

received that requested his response to allegations of misconduct being investigated in case numbers 14-O-04341, 14-O-04583, and 14-O-04666.

Case No. 15-O-10779 (The Probation Matter)

Count Twelve – Respondent willfully violated section 6068, subdivision (k), (duty to comply with probation conditions) by failing to comply with certain specified conditions attached to the disciplinary probation in State Bar Court case number 13-O-13539.

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 his default;
- (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 Saqib A. Zuberi, State Bar number 273389, be disbarred from the practice of law in the State of California and that his 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) M. Lorena Aguilera Silva in the amount of \$1,500 plus 10 percent interest per year from September 6, 2013;
- (2) Vivian M. Brown in the amount of \$65,704.47 plus 10 percent interest per year from July 2, 2014; and
- (3) Rachel Ramos Herron in the amount of \$3,300 plus 10 percent interest per year from February 24, 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, 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 Saqib A. Zuberi, State Bar number 273389, 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: January 12, 2016


YVETTE D. ROLAND
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 January 12, 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:

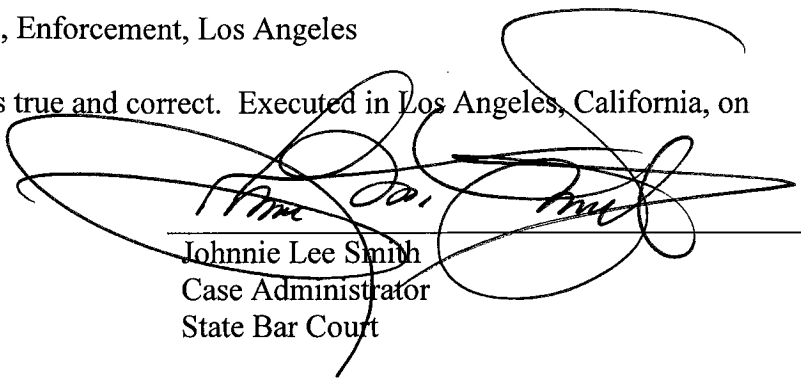
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

SAQIB A. ZUBERI
3233 GRAND AVE STE 300
CHINO HILLS, CA 91709

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

SUE HONG, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on January 12, 2016.



Johnnie Lee Smith
Case Administrator
State Bar Court