

PUBLIC MATTER

FILED
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STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

STATE BAR COURT OF CALIFORNIA

HEARING DEPARTMENT – LOS ANGELES

In the Matter of)	Case Nos.: 14-O-04902-WKM (14-O-05466;
)	14-O-05615; 15-O-10032;
ANGELA ELIZABETH MUELLER,)	15-O-10087)
Member No. 266929,)	
)	DECISION AND ORDER OF
)	INVOLUNTARY INACTIVE
A Member of the State Bar.)	ENROLLMENT

Respondent Angela Elizabeth Mueller is charged with a total of 16 counts of misconduct involving 5 separate client matters. Respondent failed to participate by filing a response, either in person or through counsel, and this court previously entered her default. Thereafter, the State Bar's Office of the Chief Trial Counsel (OCTC) filed a petition for disbarment under the California Rules of Procedure of the State Bar, rule 5.85.¹

California 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), and if the attorney fails to have the default set aside or vacated within 90 days, the State Bar will file a petition requesting the State Bar Court to recommend the attorney's disbarment. In the instant case, the court concludes that the requirements of California rule 5.85 have been

¹ Except where otherwise indicated, all further references to California rules are to this source.



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, 2009. She has continuously been a member of the State Bar of California since that time.

Procedural Requirements Have Been Satisfied

On July 8, 2015, OCTC filed and properly served the NDC on respondent at her membership-records address by certified mail, return receipt requested. The NDC notified respondent that her failure to participate in the proceeding would result in a disbarment recommendation. (Cal. Rule 5.41.) The NDC, however, was returned to OCTC undelivered with the following notation: "Box Closed No Orders."

Respondent failed to file a response to the NDC. Thereafter, on August 26, 2015, OCTC sent an email to respondent at her membership-records email address² notifying her of its intent to seek her default (OCTC attached, to its email, courtesy copies of the NDC and of its motion for entry of respondent's default). However, the transmittal of that email failed.

On August 27, 2015, OCTC filed its motion for entry of respondent's default with the court and served it on respondent at her membership-records address by certified mail, return receipt requested. 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. (Cal. Rule 5.80.) The motion also notified respondent that the court would recommend her disbarment if she did not timely move to set aside or vacate her default,.

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

On August 27, 2015, OCTC also sent courtesy copies of the NDC and its motion for the entry of respondent's default to respondent at her membership-records address by first-class mail, regular delivery. On August 27, 2015, OCTC also sent respondent three additional emails with courtesy copies of the NDC and the motion for entry of default attached to each one. OCTC sent those emails to respondent at (1) respondent's membership records public email address; (2) respondent's membership records private email address; and (3) an email address that a State Bar investigator found for respondent. Just like the first email that OCTC sent to respondent's membership records public email address, the second email that OCTC sent to respondent's membership records public email address on August 27, 2015, was rejected during transmittal. But the email that OCTC sent to respondent on August 27, 2015, at the email address found by a State Bar investigator, was not rejected.

Respondent failed to file a response to the NDC or to the motion for entry of default. Respondent's default was entered on September 14, 2015. The order entering the default was properly served on respondent at her membership records address by certified mail, return receipt requested. In the order entering the default, the court also ordered respondent's involuntary enrollment as an inactive member of the State Bar of California under Business and Professions Code section 6007, subdivision (e),³ and she has remained enrolled inactive under that order since that time.

Respondent did not seek to have her default set aside or vacated. (Cal. Rule 5.83(C)(1) [attorney has 90 days to file motion to set aside default].) On January 8, 2016, OCTC filed the petition for disbarment. As required by California rule 5.85(A), OCTC reported in the petition that (1) respondent failed to contact the State Bar since the default was entered; (2) respondent has 24 disciplinary investigations pending against her; (3) respondent has no record of prior

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

discipline; 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, and respondent did not move to set aside or vacate the default. The case was submitted for decision on February 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. (Cal. Rule 5.82.) As set forth below in greater detail, the factual allegations in the NDC support the conclusion that respondent is culpable on 10 out of the 16 counts of misconduct and, therefore, violated a statute, rule or court order that would warrant the imposition of discipline. (Cal. Rule 5.85(F)(1)(d).)

Case Number 14-O-04902 (Rayner/Wilson Client Matter)

Count One – Respondent willfully violated rule 1-300(B) of the California Rules of Professional Conduct (prohibition on practicing law in another jurisdiction in violation of that jurisdiction's law/regulations) by engaging in the practice of law in New Jersey by agreeing to perform legal services for Cheryl Rayner and Robert Wilson in violation of New Jersey Rules of Professional Conduct, rule 5.5.

Count Two – Respondent willfully violated rule 1-300(A) of the California Rules of Professional Conduct (aiding the unauthorized practice of law (UPL)) by aiding her office manager/administrator and his staff, none of whom is licensed to practice law in California or New Jersey, to engage in UPL by allowing them to provide legal advice to respondent's clients Rayner and Wilson.

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Count three charges that respondent willfully violated rule 4-200(A) of the California Rules of Professional Conduct (illegal fee) by charging and collecting from her clients Rayner and Wilson an illegal fee in the amount of \$3,752.55. Count three does not allege that the \$3,752.55 fee was for the legal services that respondent provided in violation of New Jersey Rules of Professional Conduct, rule 5.5 and rule 1-300(B) of the California Rules of Professional Conduct as found *ante* in count one. Nor does count three allege that the fee was for legal services that respondent performed while she was physically present in New Jersey. Count three alleges that the \$3,752.55 fee was illegal solely because the legal services performed dealt with property physically located in New Jersey, a jurisdiction in which respondent is not admitted to practice. The fact that the property was in New Jersey, standing alone, does not establish that the \$3,752.55 fee was illegal. In short, the factual allegations in the NDC do not support the conclusion that respondent is culpable of violating California Rule 4-200(A) in the Rayner/Wilson matter. Accordingly, count three is DISMISSED with prejudice for want of proof.

Case Number 14-O-05466 (Muisse Client Matter)

Count Four – Respondent willfully violated rule 1-300(B) of the California Rules of Professional Conduct by engaging in the practice of law in Maryland by agreeing to perform legal services for Robert Muise in violation of Maryland Rules of Professional Conduct, rule 5.5.

Count Five – Respondent willfully violated rule 1-300(A) of the California Rules of Professional Conduct by aiding her office manager/administrator and his staff, none of whom is licensed to practice law in California or Maryland, to engage in UPL by allowing them to provide legal advice to respondent's client Muise.

Count six charges that respondent willfully violated rule 4-200(A) of the California Rules of Professional Conduct by charging and collecting from her client Muise an illegal fee in the

amount of \$3995. Count six suffers from the same deficiencies as noted in count three *ante*.

Accordingly, count six is also DISMISSED with prejudice for want of proof.

Case Number 14-O-05615 (McThias Client Matter)

Count Seven – Respondent willfully violated rule 1-300(B) of the California Rules of Professional Conduct by engaging in the practice of law in New Mexico by agreeing to perform legal services for Timothy McThias in violation of New Mexico Statutes, Chapter 36, Article 2, section 36-2-27.

Count Eight – Respondent willfully violated rule 1-300(A) of the California Rules of Professional Conduct by aiding her office manager/administrator and his staff, none of whom is licensed to practice law in California or New Mexico, to engage in UPL by allowing them to provide legal advice to respondent's client McThias.

Count nine charges that respondent willfully violated rule 4-200(A) of the California Rules of Professional Conduct by charging and collecting from her client McThias an illegal fee in the amount of \$1,800. Count nine suffers from the same deficiencies as those noted in count three *ante*. Accordingly, count nine is also DISMISSED with prejudice for want of proof.

Case Number 15-O-10032 (Christos Client Matter)

Count Ten – Respondent willfully violated rule 1-300(B) of the California Rules of Professional Conduct by engaging in the practice of law in New Jersey by agreeing to perform legal services for Peter Christos in violation of New Jersey Rules of Professional Conduct, rule 5.5.

Count Eleven – Respondent willfully violated rule 1-300(A) of the California Rules of Professional Conduct by aiding her office manager/administrator and his staff, none of whom is licensed to practice law in California or New Jersey to engage in UPL by allowing them to provide legal advice to respondent's client Christos.

Count twelve charges that respondent willfully violated rule 4-200(A) of the California Rules of Professional Conduct by charging and collecting from her client Christos an illegal fee in the amount of \$3,500. Count twelve suffers from the same deficiencies as those noted in count three *ante*. Accordingly, count twelve is also DISMISSED with prejudice for want of proof.

Case Number 15-O-10087 (Lawrence Client Matter)

Count Thirteen – Respondent willfully violated rule 1-300(B) of the California Rules of Professional Conduct by engaging in the practice of law in Maryland by agreeing to perform legal services for Lois Lawrence in violation of Maryland Rules of Professional Conduct, rule 5.5.

Count Fourteen – Respondent willfully violated rule 1-300(A) of the California Rules of Professional Conduct by aiding her office manager/administrator and his staff, none of whom is licensed to practice law in California or Maryland to engage in UPL by allowing them to provide legal advice to respondent's client Lawrence.

Count fifteen charges that respondent willfully violated rule 4-200(A) of the California Rules of Professional Conduct by charging and collecting from her client Lawrence an illegal fee in the amount of \$4,650. Count fifteen suffers from the same deficiencies as those noted in count three *ante*. Accordingly, count fifteen is also DISMISSED with prejudice for want of proof.

**Case Numbers 14-O-04902; 14-O-05466; 14-O-05615; 15-O-10032; 15-O-10087
(Lending Name to Another)**

Count sixteen charges respondent with willfully violating Business and Professions Code section 6105 (lending attorney's name to another) by lending her name to her office manager/administrator in order to pursue, solicit, and secure clients for legal services throughout the United States. Respondent's misconduct in lending her name to her office

manager/administrator is clearly encompassed within the charged and found violations of California Rules of Professional Conduct, rule 1-300(A) in counts two, five, eight, eleven, and fourteen, namely respondent's aiding UPL by permitting her office manager/administrator and his staff to provide legal advice to her clients. (Cf., *In the Matter of Valinoti* (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498, 523, fn. 34.) Accordingly, count sixteen is DISMISSED with prejudice as duplicative of counts two, five, eight, eleven, and fourteen.

Disbarment is Appropriate under the California Rules of Procedure

Based on the above, the court concludes that the requirements of California rule 5.85(F) have been satisfied and respondent's disbarment should be recommended. In particular:

- (1) the NDC was properly served on respondent under California rule 5.25;
- (2) reasonable diligence was used to notify respondent of the proceedings prior to the entry of her default;
- (3) her default was properly entered under California 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 California Rules of Procedure of the State Bar, the court recommends her disbarment.

RECOMMENDATIONS

Disbarment

The court recommends that respondent Angela Elizabeth Mueller be disbarred from the practice of law in the State of California and that her name be stricken from the roll of attorneys.

California Rules of Court, 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 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 Angela Elizabeth Mueller, State Bar number 266929, 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 (Cal. Rules Proc. of State Bar, rule 5.111(D)).

Dated: March 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 March 8, 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:

**ANGELA E. MUELLER
THE LAW OFFICES OF ANGELA
MUELLER, APC
PO BOX 5149
SAN DIEGO, CA 92165**

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

HUGH GERARD RADIGAN, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on March 8, 2016.



Paul Barona
Case Administrator
State Bar Court