

PUBLIC MATTER

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT - LOS ANGELES

FILED
MAR 29 2016
STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

In the Matter of)	Case No.: 15-O-10380-DFM
)	
JENNIFER JOANNE)	DECISION AND ORDER OF
McGREADY-ORNELAS,)	INVOLUNTARY INACTIVE
)	ENROLLMENT
Member No. 262482,)	
)	
<u>A Member of the State Bar.</u>)	

Respondent Jennifer Joanne McGready-Ornelas (Respondent) was charged in six counts with violations of the Rules of Professional Conduct and the Business and Professions Code.¹ She failed to participate, either in person or through counsel, and her default was entered. The Office of the Chief Trial Counsel of the State Bar of California (State Bar) filed a petition for disbarment under rule 5.85 of the Rules of Procedure of the State Bar.²

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 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.³

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.

¹ Unless otherwise indicated, all further references to section(s) refer to provisions of the Business and Professions Code.

² Unless otherwise indicated, all references to rules are to this source.

³ 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).)

FINDINGS AND CONCLUSIONS

Jurisdiction

Respondent was admitted to the practice of law in California on March 3, 2009, and has been a member of the State Bar of California at all times since then.

Procedural Requirements Have Been Satisfied

On August 17, 2015, the State Bar filed and properly served the Notice of Disciplinary Charges (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.) On August 19, 2015, the State Bar received the signed receipt card for the August 17th mailing, bearing the signature "Michelle."⁴

As set forth below, the deputy trial counsel (DTC) assigned to this proceeding also made numerous efforts to provide Respondent with additional notice of this proceeding. These efforts included conducting internet searches that provided various phone numbers, email addresses, and home or office addresses associated with Respondent and, thereafter, attempting to contact Respondent at those numbers and addresses.

On September 21, 2015, a Lexis search was performed identifying three separate phone numbers for Respondent. The first number was Respondent's official membership records telephone number. The assigned DTC telephoned that number and was informed that Respondent no longer worked at the firm associated with that telephone number. The assigned DTC then telephoned the second number and left a message on the voicemail, asking Respondent to return the call as soon as possible. On September 21st, the DTC also attempted to contact Respondent at the third phone number, which was answered by Debbie Ornelas, who informed the DTC that she was Respondent's mother. Debbie Ornelas told the DTC that Respondent was not at that number but, she confirmed that the second telephone number, i.e., the

⁴ No last name was listed on the receipt card.

number at which Respondent previously had left a voicemail for Respondent, was Respondent's number and the best telephone number at which to reach Respondent. The DTC, however, never received a return phone call from Respondent, despite a follow-up effort by the DTC to reach Respondent by telephone at the number confirmed by Respondent's mother.

On September 21, 2015, the assigned DTC also attempted to contact Respondent at the email address listed by her with the State Bar. Attached to this email was a copy of the NDC. The email, however, was returned as undeliverable. The DTC then sent messages and a copy of the NDC to Respondent at three alternative email addresses for Respondent. None of these emails was returned.

An attempt was also made to reach Respondent by regular mail. On September 22, 2015, the assigned DTC sent a courtesy copy of the NDC to Respondent via regular mail at her official membership records address, as well as to her Placentia, California home address. Along with the courtesy copies of the NDC, the DTC sent a letter informing Respondent of the DTC's intent to file a motion for default. These mailings were not returned as undeliverable.

Despite all of these efforts of DTC, Respondent did not file a response to the NDC. Nor did she make any appearances in the proceeding, despite notices from the court that she do so.

On October 2, 2015, the State Bar filed and properly served a motion for entry of Respondent's default. The motion complied with all of the requirements for a default, including a supporting declaration of reasonable diligence by the assigned deputy trial counsel. (Rule 5.80.) The motion 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 October 20, 2015. The court also ordered Respondent's involuntary inactive enrollment as a member of the State Bar pursuant to section 6007, subdivision (e), effective three days after service of the order, and she has remained inactively enrolled since that time. The order entering the default and enrolling Respondent inactive was

served on Respondent at her membership records address by certified mail, return receipt requested.

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 January 26, 2016, the State Bar filed and properly served a petition for disbarment. As required by rule 5.85(A), the State Bar reported in the petition that: (1) Respondent has had no contact with the State Bar since the default was entered on October 20, 2015; (2) there are no 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 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 February 25, 2016.

The Admitted Factual Allegations Warrant the Imposition of Discipline

Upon entry of a 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(2).) As set forth in greater detail below, 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 No. 15-O-10380 (Emon-Davidson Matter)

Count One – Respondent, who was retained by her client to prepare and file reaffirmation paperwork in bankruptcy proceedings to remove the client's mortgage company as one of the debtors, willfully violated rule 3-110(A) of the Rules of Professional Conduct (failure to perform legal services with competence) when she did not perform with competence by: (1) failing to appear at a pre-scheduled meeting on September 1, 2014 with the client to review the reaffirmation paperwork in the bankruptcy proceeding; (2) failing to file the reaffirmation

paperwork in the bankruptcy proceeding; and (3) failing to perform any legal services on behalf of the client.

Count Two – Respondent willfully violated rule 3-700(D)(2) of the Rules of Professional Conduct (failure to promptly refund unearned fees) by failing to promptly refund, upon her termination of employment on October 23, 2014, any part of the \$1,000 legal fee which the client had advanced to her on May 27, 2014, which legal fee Respondent had not earned.⁵

Count Three – Respondent, who received reasonable status inquiries from her client by telephone and text messages from August 4 through September 9, 2014, regarding the matter in which Respondent had agreed to provide legal services, willfully violated Business and Professions Code section 6068, subdivision (m) (failure to respond promptly to reasonable status inquiries), by failing to respond promptly to her client's reasonable inquiries.

Count Four – Respondent, who maintained her official State Bar membership records address as that of the law firm at which she was employed, willfully violated section 6068, subdivision (j) (failure to update membership address), by failing to update her State Bar official membership address with a current address within 30 days after she no longer had an office at that firm and/or location.

Count Five – Respondent willfully violated section 6068, subdivision (i) (failure to cooperate with the State Bar in a disciplinary investigation), by failing to provide a substantive response to State Bar letters, telephone calls, and emails, sent to her from January 7, 2015 through June 1, 2015, which State Bar communications she received and which requested her response to allegations of misconduct being investigated in State Bar case No. 13-O-11318.

⁵ The court does not recommend that Respondent be required to pay restitution of the unearned fee she received, since the NDC does not allege that Respondent has failed to return the unearned fee but instead only alleges that "Respondent failed to refund *promptly*" (italics added) any part of the \$1,000 unearned fee she received.

Disbarment is Recommended

Based on the above, the court concludes that the requirements of rule 5.85(F) have been satisfied and that 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;
- (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.

RECOMMENDATIONS

Disbarment

The court recommends that respondent **Jennifer Joanne McGready-Ornelas**, State Bar number 262482, 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 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.

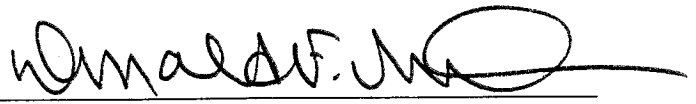
Costs

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 **Jennifer Joanne McGready-Ornelas**, State Bar number 262482, 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: March 29, 2016



DONALD F. MILES
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 29, 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:

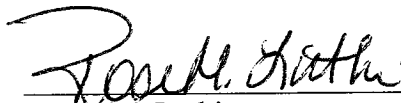
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

JENNIFER J. MCGREADY-ORNELAS
4665 MACARTHUR CT STE 200
NEWPORT BEACH, CA 92660

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

SHATAKA SHORES-BROOKS, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on March 29, 2016.



Rose M. Luthi
Case Administrator
State Bar Court