

FILED
AUG 22 2016 P.B.
STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

PUBLIC MATTER

STATE BAR COURT OF CALIFORNIA HEARING DEPARTMENT – LOS ANGELES

In the Matter of)	Case No.: 15-O-11105-WKM
)	
RUTH ANN REID,)	DECISION AND ORDER OF
)	INVOLUNTARY INACTIVE
Member No. 116119,)	ENROLLMENT
)	
<u>A Member of the State Bar.</u>)	

Respondent Ruth Ann Reid (respondent) was charged with committing an act involving moral turpitude, dishonesty, or corruption in willful violation of Business and Professions Code¹ section 6106 by falsely reporting her compliance with her minimum continuing legal education (MCLE) requirements. She failed to participate in this matter, either in person or through counsel, and her default was entered. The Office of 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

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

²Unless 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.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.

FINDINGS AND CONCLUSIONS

Jurisdiction

Respondent was admitted to practice law in this state on December 3, 1984, and has been a member since then.

Procedural Requirements Have Been Satisfied

On September 3, 2015, the State Bar filed and properly served the 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.) The State Bar received back the NDC on September 30, 2015, from the United States Postal Service (USPS) with notations indicating that it was unclaimed and could not be forwarded. The return receipt which accompanied the NDC was received by Deputy Trial Counsel Sherell N. McFarlane (DTC McFarlane) on October 27, 2015. The return receipt was signed by "P. Suin"⁴ and reflected a delivery date of September 30.⁵

³If the court determines that any due process requirements are not satisfied, including adequate notice to the attorney, it must deny the petition for disbarment, vacate entry of default, and take other appropriate action to ensure that the matter is promptly resolved. (Rule 5.85(F)(2).)

⁴ See the October 28, 2015 supplemental declaration of DTC McFarlane in support of the State Bar's motion for the entry of respondent's default.

⁵ Nevertheless, as the State Bar received back the NDC from the USPS, it is clear that respondent did not receive the NDC sent to her membership records address on September 3, 2015, by certified mail, return receipt requested.

DTC McFarlane attempted to reach respondent on October 8, 2015, by telephone at her official membership records telephone number. DTC McFarlane's call was met with a recorded greeting, and she left a voicemail message for respondent inquiring whether respondent planned to attend the October 9, 2015 initial status conference. DTC McFarlane received a voicemail message from respondent on October 9, 2015, indicating that respondent was out of town. On that same day, DTC McFarlane sent a letter to respondent enclosing a copy of the NDC. The letter was sent to respondent's membership address by regular first-class mail, postage prepaid, through the USPS. She also caused her October 9, 2015 letter, with a copy of the NDC, to be emailed to respondent's private email address on file with the State Bar.⁶

DTC McFarlane also attempted to reach respondent on October 21, 2015, by telephone at respondent's membership records telephone number. Her call was met with a record greeting, and she left a voicemail message for respondent indicating that the State Bar would be filing a motion for entry of respondent's default because she had failed to file a response to the NDC. In her message, DTC McFarlane also indicated that respondent should serve the State Bar with her response to the NDC immediately to avoid the filing of a motion for the entry of respondent's default.

Despite the efforts of the State Bar, respondent failed to file a response to the NDC. On October 23, 2015, the State Bar properly filed and served a motion for entry of respondent's default.⁷ The motion complied with all the requirements for a default, including a supporting

⁶ 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).)

⁷ The motion was served on respondent at her membership records address by certified mail, return receipt requested, and by U.S. first-class mail. The motion sent by first-class mail was not returned as undeliverable; however, the motion sent by certified mail was returned to the State Bar as unclaimed.

declaration of reasonable diligence by the State Bar deputy trial counsel.⁸ (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 still did not file a response to the motion, and her default was entered on November 12, 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, on November 12, 2015.

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 April 20, 2016, the State Bar filed and served a petition for disbarment on respondent by certified mail, return receipt requested, at her membership records address.⁹ As required by rule 5.85(A), the State Bar reported in the petition that: (1) respondent has not contacted the State Bar since the order entering respondent's default was filed; (2) there are no investigations or other disciplinary charges pending against respondent; (3) respondent does not have a prior record of discipline; and (4) the Client Security Fund has not made any payments as a result of 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 May 31, 2016.

⁸ On October 28, 2015, DTC McFarlane's supplemental declaration in support of the motion for entry of respondent's default was filed and served on respondent's membership records address by certified mail, return receipt requested, and by U.S. first-class mail.

⁹ The State Bar originally filed and served on respondent a petition for disbarment on February 19, 2016, by certified mail, return receipt requested, and by U.S. first-class mail. Respondent did not file a response to the disbarment petition, and this matter was originally submitted for decision on March 17, 2016. However, on April 11, 2016, the court filed an order denying the disbarment petition without prejudice as it did not comport with the requirements of rule 5.85(A).

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(2).) 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 15-O-11105 (Dishonesty, Moral Turpitude, or Corruption)

Respondent willfully violated section 6106 (dishonesty, moral turpitude, or corruption) by falsely reporting to the State Bar, on June 30, 2014, under penalty of perjury, that she had fully complied with her MCLE requirements for the period of February 1, 2011 to January 31, 2014, when she was grossly negligent in not knowing that she had failed to complete the MCLE requirements for that period, thereby committing an act of moral turpitude.

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;
- (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.

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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 Ruth Ann Reid, State Bar number 116119, 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 Ruth Ann Reid, State Bar number 116119, 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: August 19, 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 August 22, 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:

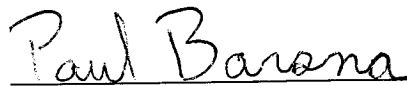
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**RUTH ANN REID
17 BROWNSBURY RD
LAGUNA NIGUEL, CA 92677**

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

SHERELL N. McFARLANE, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on August 22, 2016.



Paul Barona
Case Administrator
State Bar Court