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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 No.: 15-O-14014-YDR
)	
KATAYOUN T. FAZLI,)	DECISION AND ORDER OF
)	INVOLUNTARY INACTIVE
Member No. 289425,)	ENROLLMENT
)	
<u>A Member of the State Bar.</u>)	



Katayoun T. Fazli (Respondent) was charged with six counts of misconduct. She failed to participate in these proceedings either in person or through counsel, 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 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 the attorney fails to have the default set aside or vacated within 90 days, OCTC will file a petition requesting that the court recommend the attorney's disbarment.²

¹ Unless otherwise indicated, all references to rules are to this source. Furthermore, all statutory references are to the Business and Professions Code, unless otherwise indicated.

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 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 California on May 22, 2013, and has been a member since then.

Procedural Requirements Have Been Satisfied

On December 29, 2015, OCTC filed and properly served the NDC on Respondent by certified mail, return receipt requested, at Respondent's 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 February 9, 2016, the OCTC received the return receipt card signed by "Psuin."

Reasonable diligence was used to notify Respondent of this proceeding. OCTC took the following additional steps to provide Respondent with notice: (1) called two alternate phone numbers obtained from Respondent's prior employer that differed from her membership records phone number; (2) conducted an Internet search to obtain other potential addresses and telephone numbers; (3) sent a letter and copy of the NDC to Respondent at her membership records address; and (4) sent a letter and copy of the NDC to Respondent at her membership records email address.

Respondent failed to file a response to the NDC. On February 24, 2016, OCTC filed and properly served a motion for entry of Respondent's default on Respondent at her membership records address. The motion complied with all of the requirements for a default, including a supporting declaration of reasonable diligence by OCTC deputy trial counsel declaring the

additional steps taken to provide notice to Respondent. (Rule 5.80.) The motion also notified Respondent that if she did not timely move to set aside her default, the court would recommend her disbarment.³

Respondent attended a voluntary settlement conference on March 14, 2016. She was ordered to file a response to the NDC by March 16, 2016. Respondent failed to comply with the order, she did not file a response to the default motion, and her default was entered on March 17, 2016. The order entering the default was served on Respondent at her 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. She has remained inactively enrolled since that time.

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 July 15, 2016, OCTC properly filed and served the petition for disbarment on Respondent at her official membership records address. As required by rule 5.85(A), OCTC reported in the petition that: (1) there has been no contact with Respondent since her default was entered; (2) there is one other matter pending against Respondent; (3) Respondent has no prior record of 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. The case was submitted for decision on August 11, 2016.

³ Respondent attended a voluntary settlement conference on March 14, 2016. She was ordered to file a response to the NDC by March 16, 2016. Respondent failed to comply with the order.

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. 15-O-14014 (The Jaramillo Matter)

Count One – The court does not find Respondent culpable of willfully violating rule 3-110(A) of the Rules of Professional Conduct (failure to perform legal services with competence) 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 Two – Respondent willfully violated rule 3-700(D)(2) (failure to refund unearned fees) by failing to promptly refund, upon termination of her employment, any part of the unearned \$1,000 advanced fee paid by her client, as Respondent performed no services on behalf of her client for which she was retained.

Count Three – Respondent willfully violated rule 4-100(B)(3) of the Rules of Professional Conduct (failure to render an accounting) by failing to provide her client with an accounting of the \$1,000 advanced fee that Respondent received from her client.

Count Four – Respondent willfully violated section 6068, subdivision (i) (failure to cooperate), by failing to provide a substantive response to two OCTC letters that Respondent received, which requested a response to the allegations of misconduct being investigated.

Count Five – Respondent willfully violated section 6068, subdivision (j) (failure to update membership address), by failing to notify the State Bar of the change in Respondent's address within 30 days, as required by Business and Professions Code section 6002.1.

Count Six – Respondent willfully violated section 6068, subdivision (m) (failure to communicate), by failing to respond to her client's reasonable status inquiries.

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.

Despite actual 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 Katayoun T. Fazli, State Bar number 289425, be disbarred from the practice of law in the State of California and that her name be stricken from the roll of attorneys.

The court also recommends that Respondent be ordered to make restitution to Joseph Jaramillo in the amount of \$1,000 plus 10 percent interest per year from May 26, 2015. 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 Katayoun T. Fazli, State Bar number 289425, 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: October 21, 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 October 21, 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:

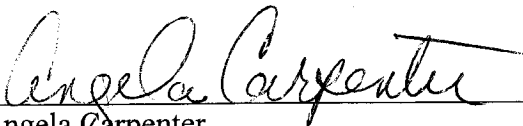
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

KATAYOUN T. FAZLI
242 GLENDORA AVE
APT 2
LONG BEACH, CA 90803 - 3505

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

Ann J. Kim, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on October 21, 2016.



Angela Carpenter
Case Administrator
State Bar Court