

# PUBLIC MATTER

STATE BAR COURT OF CALIFORNIA

HEARING DEPARTMENT - LOS ANGELES

FILED

SEP. 01 2016

STATE BAR COURT  
CLERK'S OFFICE  
LOS ANGELES

In the Matter of

**DEBRA RAWLS PRICOLA**

**Member No. 178152,**

A Member of the State Bar.

) Case No.: **15-O-14466-DFM**

) **DECISION AND ORDER OF**  
) **INVOLUNTARY INACTIVE**  
) **ENROLLMENT**

Respondent Debra Rawls Pricola (Respondent) was charged with two counts of misconduct. 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.<sup>1</sup>

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.<sup>2</sup>

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.

<sup>1</sup> Unless otherwise indicated, all references to rules are to this source.

<sup>2</sup> 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 practice law in California on December 1, 1995, and has been a member since then.

### **Procedural Requirements Have Been Satisfied**

On December 29, 2015, the State Bar filed and properly served the Notice of Disciplinary Charges (NDC) on Respondent by certified mail, return receipt requested, at her official membership records address. The NDC notified Respondent that her failure to participate in the proceedings would result in a disbarment recommendation. (Rule 5.41.) The NDC was returned to the State Bar by the U.S. Postal Service, bearing the stamp, "Delivery Attempted Unclaimed."

Thereafter, the State Bar took additional steps to notify Respondent of these proceedings.<sup>3</sup> On January 29, 2016, the assigned State Bar deputy trial counsel (DTC) sent a letter and courtesy copy of the NDC to Respondent's official membership records address via regular first class mail. On that same day, the DTC also faxed and emailed copies of that letter and enclosure to Respondent at her fax number and email address listed with the State Bar.<sup>4</sup> This letter advised that, if Respondent failed to file a response to the NDC by February 8, 2016, the State Bar would file a motion for entry of Respondent's default in this proceeding. While the January 29<sup>th</sup> mailing was returned by the postal service, the DTC received a fax confirmation page for the faxed copy of the letter and the email was not returned as undeliverable.

Despite the State Bar's various efforts, Respondent failed to file a response to the NDC. On February 26, 2016, the State Bar filed and properly served a motion for entry of Respondent's default. The motion complied with the requirements for a default, including a

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<sup>3</sup> Rule 5.80(B)(2) requires that, if a signed return receipt for the notice of disciplinary charges is not received from the member, the declaration supporting the motion for entry of default must show that the State Bar took "additional steps a reasonable person would have taken under the circumstances to provide notice."

<sup>4</sup> 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).)

supporting declaration of reasonable diligence by the DTC declaring the additional steps taken to provide notice of the proceedings 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.

Respondent did not file a response to the motion, and her default was entered on March 17, 2016. The order entering the default was properly served on Respondent at her membership records address by certified mail, return receipt requested.<sup>6</sup> 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, and 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 June 23, 2016, the State Bar filed and properly served a petition for disbarment on Respondent at her official membership records address. The petition, however, did not fully comply with rule 5.85 of the Rules of Procedure of the State Bar. Consequently, on July 11, 2016, the court issued an order requiring the State Bar to augment the Petition and bring it into full compliance with the requirements of rule 5.85.

On July 12, 2016, the State Bar filed and properly served an augmented petition. As required by rule 5.85(A), the State Bar reported in its augmented petition that: (1) it has had no contact with Respondent since the default was entered on March 17, 2016; (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 as a result of Respondent's misconduct.

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<sup>6</sup> A copy of the order of entry of default was also sent to Respondent at her membership records address via regular first class mail.

Respondent did not respond to the petition or its subsequent augmentation or move to set aside or vacate the default. The case was submitted for decision on August 10, 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 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-14466 – The MCLE Compliance Matter**

Count One – Respondent willfully violated Business and Professions Code section 6106 (moral turpitude – misrepresentation) by falsely reporting to the State Bar, under penalty of perjury, that she had fully complied with her minimum continuing legal education (MCLE) requirements for the period of February 1, 2011 to January 31, 2014, when Respondent knew or was grossly negligent in not knowing that she had failed to complete the MCLE requirements for that period.

Count Two – Respondent willfully violated Business and Professions Code section 6068, subdivision (i) (failing to cooperate in a disciplinary investigation), by failing to provide a substantive response to the State Bar's September 24 and October 14, 2015 investigation letters, which Respondent received and which requested her response to the allegations of misconduct being investigated in case No. 15-O-14466.

**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 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 **Debra Rawls Pricola**, State Bar number 178152, 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.

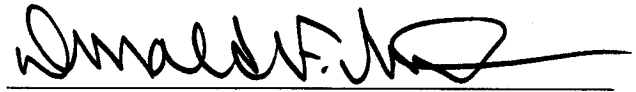
#### **Costs**

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 **Debra Rawls Pricola**, State Bar number 178152, 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: September 1, 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 September 1, 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:

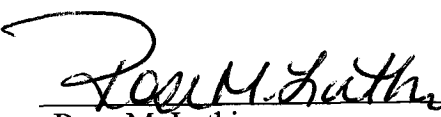
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

DEBRA R. PRICOLA  
LAW OFC DEBRA R PRICOLA  
950 COUNTY SQ DR #213  
VENTURA, CA 93003

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

NINA SARRAF-YAZDI, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on September 1, 2016.

  
\_\_\_\_\_  
Rose M. Luthi  
Case Administrator  
State Bar Court