

**PUBLIC MATTER
FILED**

MAY 03 2017

**STATE BAR COURT CLERK'S OFFICE
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**STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT - SAN FRANCISCO**

In the Matter of)	Case No. 15-O-14601-LMA
)	
PORTIA BETTIS,)	DECISION AND ORDER OF
)	INVOLUNTARY INACTIVE
A Member of the State Bar, No. 269192.)	ENROLLMENT
_____)	

Respondent Portia Bettis (Respondent) was charged with violations of the Business and Professions Code¹ and the State Bar Rules of Professional Conduct. She failed to participate, 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 (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



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).)

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 March 12, 2010, and has been a member since then.

Procedural Requirements Have Been Satisfied

On October 11, 2016, the State Bar filed and properly served the NDC in this matter on Respondent by certified mail, return receipt requested, and by U.S. first-class mail, 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.) Each copy of the NDC was returned to the State Bar reflecting "IN DISPUTE" and that it was unable to be forwarded.

Thereafter, the State Bar (1) e-mailed a copy of the NDC to Respondent at her membership records e-mail address;⁴ (2) attempted to reach Respondent by telephone at her membership records telephone number; and (3) sent an e-mail to Respondent at her membership records e-mail address informing her about the filing and service of the NDC and the scheduled initial status conference in this matter.⁵

Shortly after sending this e-mail, the deputy trial counsel assigned to this matter received a telephone call from Respondent in which she stated that (1) she had relocated to Texas; (2) she did not have a permanent address or telephone number; and (3) she was unable to travel to

⁴ Effective February 1, 2010, all attorneys are required to maintain a current e-mail address to facilitate communications with the State Bar. (Cal. Rules of Court, rule 9.7(a)(2).) Respondent replied to this e-mail.

⁵ Attached to this e-mail was a copy of the court's Notice of Assignment and Notice of Initial Status Conference.

California to participate in the State Bar proceedings. Thereafter, on November 1, 2016, the deputy trial counsel e-mailed Respondent information about the allegations in the NDC and a stipulation to extend her time to respond to the NDC. Respondent responded, in pertinent part, "Thank you for your time today. After our conversation and some reflection I have decided to surrender my license."⁶

Respondent failed to file a response to the NDC. On November 15, 2016, the State Bar filed and properly served on Respondent by certified mail, return receipt requested, and by U.S. first-class mail, a motion for entry of Respondent's default, addressed to Respondent at her membership records address. The motion complied with all 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 still did not file a response to the motion, and her default was entered on December 1, 2016. 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.⁷

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 March 16, 2017, the State Bar filed

⁶ Exhibit 7 attached to the State Bar's motion for the entry of Respondent's default.

⁷ The order was returned to the State Bar Court reflecting "NO SUCH STREET" and that it was unable to be forwarded.

and properly served a petition for disbarment on Respondent.⁸ As required by rule 5.85(A), the State Bar reported in the petition that: (1) Respondent has not contacted the assigned deputy trial counsel or the State Bar since the date the order entering Respondent's default was served;⁹ (2) there is one disciplinary investigation pending against Respondent; (3) Respondent does not have any 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 April 11, 2017.

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-14601 (Sims Matter)

Count One – Respondent willfully violated rule 3-110(A) of the Rules of Professional Conduct (failure to perform legal services with competence) by failing to initiate court proceedings or to take any substantive steps towards her client's objectives prior to the termination of Respondent's employment.

Count Two – Respondent willfully violated rule 3-700(D)(2) of the Rules of Professional Conduct (failure to return unearned fees) by failing to promptly refund, upon Respondent's

⁸ The petition for disbarment was served on Respondent by certified mail, return receipt requested, to her membership records address.

⁹ This is the same date that Respondent's default was entered.

termination of employment, any part of the \$3,000 advanced fee she received from her client on September 10, 2014, none of which she earned.

Count Three – Respondent willfully violated rule 4-100(B)(3) of the Rules of Professional Conduct (maintain records of client property/render appropriate accounts) by failing, upon termination of her employment on August 12, 2015, to render an appropriate accounting to her client of the \$3,000 advanced fees Respondent received.

Count Four – Respondent willfully violated section 6068, subdivision (m) (failure to communicate), by failing to respond promptly to at least six telephonic reasonable status inquiries made by her client between November 2014 and August 2015, which Respondent received in a matter in which she had agreed to provide legal services.

Count Five – Respondent willfully violated section 6068, subdivision (i) (failure to cooperate), by failing to provide a substantive response to two letters from the State Bar which she received that requested her response to allegations of misconduct being investigated in this matter.

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 and Respondent had actual notice of this proceeding;
- (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 and 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.

RECOMMENDATIONS

Disbarment

The court recommends that Respondent Portia Bettis, State Bar number 269192, be disbarred from the practice of law in the State of California and that her name be stricken from the roll of attorneys.

Restitution

The court also recommends that Respondent be ordered to make restitution to Sandra Sims in the amount of \$3,000, plus 10 percent interest per year from August 12, 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.


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ORDER OF INVOLUNTARY INACTIVE ENROLLMENT

In accordance with Business and Professions Code section 6007, subdivision (c)(4), the court orders that Portia Bettis, State Bar number 269192, 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: May 3, 2017



LUCY ARMENDARIZ
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 San Francisco, on May 3, 2017, 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 San Francisco, California, addressed as follows:

PORTIA BETTIS
BETTIS, P.C.: A PROFESSIONAL LAW CORP.
225 W WINTON AVE STE 202A
HAYWARD, CA 94544

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

MARIA J. OROPEZA, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on May 3, 2017.



Bernadette Molina
Case Administrator
State Bar Court