

FILED

AUG 10 2017

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. 16-O-11709
)	
AMY LAUREN MCDONALD,)	DECISION AND ORDER OF
)	INVOLUNTARY INACTIVE
A Member of the State Bar, No. 196157.)	ENROLLMENT
)	

Amy Lauren McDonald (Respondent) was charged with three 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 June 26, 1998, and has been a member since then.

Procedural Requirements Have Been Satisfied

On October 31, 2016, 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.) The NDC was returned as undeliverable.

Reasonable diligence was used to notify Respondent of this proceeding. From December 19, 2016, through January 12, 2017, OCTC took the following additional steps to provide Respondent with notice: (1) called Respondent at her membership records telephone number, but the number was out of service; (2) emailed a copy of the NDC to Respondent at the email address listed with membership records; (3) performed a computer search to obtain an alternate address for Respondent; (4) twice left a voicemail message for Respondent at an alternate phone number advising Respondent to call OCTC; (5) sent a copy of the NDC to an alternate Las Vegas address obtained from Respondent's ex-husband; and (6) twice sent Respondent an email informing her that OCTC was trying to contact her to provide her with courtesy copies of the NDC and other documents filed in this matter.

Respondent failed to file a timely response to the NDC. On January 13, 2017, 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 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. Respondent did not file a response to the motion, and her default was entered on February 9, 2017. 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.

On May 25, 2017, 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 are no other matters 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 July 12, 2017.

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. 16-O-11709 (The Andrews 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(A)(2) of the Rules of Professional Conduct (improper withdrawal) by constructively terminating his employment when he failed to take any action on his client's behalf after January 14, 2016, failed to move to withdraw from her client's case, and failed to inform her client that she was seeking to terminate employment.

Count Three – 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.

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.

RECOMMENDATION

Disbarment

The court recommends that respondent Amy Lauren McDonald, State Bar number 196157, 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 Amy Lauren McDonald, State Bar number 196157, 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 10, 2017


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 August 10, 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:

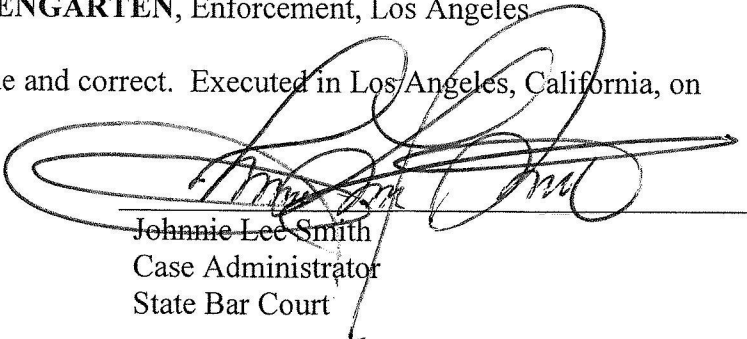
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**AMY L. MCDONALD
LAW OFFICE OF AMY L. MCDONALD
2610 TORREY PINES RD
D-38
LA JOLLA, CA 92037**

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

ERIC J. AUFDENGARTEN, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on August 10, 2017.



Johnnie Lee Smith
Case Administrator
State Bar Court