

PUBLIC MATTER

FILED 
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**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. 16-O-13701-LMA
)	
KAREN LEE CALDWELL,)	
)	DECISION AND ORDER OF
A Member of the State Bar, No. 181749.)	INVOLUNTARY INACTIVE
)	ENROLLMENT
_____)	

Respondent Karen Lee Caldwell (respondent) was charged with two counts of violations of the Business and Professions Code.¹ She failed to participate, either in person or through counsel, and her default was entered. The Office of Chief Trial Counsel (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

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.



(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

Respondent was admitted to practice law in California on February 27, 1996, and has been a member since then.

Procedural Requirements Have Been Satisfied

On March 30, 2017, the State Bar properly filed and served a notice of disciplinary charges (NDC) on respondent by certified mail, return receipt requested, to 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.) A courtesy copy of the NDC was also sent to respondent by regular first class mail to her membership records address, as shown by the Declaration of Service. On April 3, 2017, the State Bar received a return receipt; but the signature was illegible.

On May 2, 2017, the State Bar attempted to reach respondent by telephone at her official membership records telephone number. The phone number was active with respondent identifying herself in the voicemail greeting. The State Bar left a voicemail message informing respondent of the status of her case and the upcoming May 8, 2017 status conference. The State Bar received no response from respondent. The State Bar has not had any contact with

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).)

respondent since September 9, 2016, when she contacted the State Bar regarding an investigation.

Respondent failed to file a response to the NDC. On May 8, 2017, the State Bar properly filed and served a motion for entry of respondent's default by certified mail, return receipt requested. The motion was returned as undeliverable. The motion complied with all the requirements for a default, including a supporting declaration of reasonable diligence by the State Bar 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. Respondent did not file a response to the motion, and her default was entered on May 24, 2017. The order entering the default was served on respondent at her membership records address by certified mail, return receipt requested. The court received a signed return receipt. 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 August 31, 2017, the State Bar properly filed and served the petition for disbarment on respondent at her official membership records address. As required by rule 5.85(A), the State Bar reported in the petition that: (1) there has been no contact with respondent since her default was entered; (2) there is one investigation matter pending against respondent; (3) respondent has one prior record of discipline; and (4) the Client Security Fund has not paid any claims as a result of respondent's misconduct.

Respondent has not responded to the petition for disbarment or moved to set aside or vacate the default. The case was submitted for decision on September 26, 2017.

Prior Record of Discipline

Respondent has one prior record of discipline.⁴ On March 29, 2016, the State Bar Court of California filed an order in State Bar Court case Nos. 13-O-14406 and 14-O-01775 (cons.) imposing a private reproof after she had successfully completed the Alternative Discipline Program. Her misconduct involved failing to perform services competently; failing to communicate; improperly withdrawing from employment; and failing to cooperate with the State Bar in two client matters.

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 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-13701 (Sanctions Order Matter)

Count 1 – Respondent willfully violated section 6103 (failure to comply with court order) by failing to comply with three court sanctions orders, each in the amount of \$400, issued by San Francisco County Superior Court on August 19, 2015, November 18, 2015, and February 25, 2016, in *Leflora Townes et al. v. Francesco Covucci*, case No. CGC-14-542703.

Count 2 – Respondent willfully violated section 6068, subdivision (i) (failure to cooperate with the State Bar in a disciplinary investigation), by failing to provide a substantive response to the State Bar's August 29, October 19, and November 10, 2016 letters.

⁴ The court admits into evidence the certified copy of respondent's prior record of discipline attached to the petition for disbarment.

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 her disbarment.

RECOMMENDATIONS

Disbarment

The court recommends that respondent Karen Lee Caldwell, State Bar number 181749, 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 Karen Lee Caldwell, State Bar number 181749, 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 17, 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 October 17, 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:

KAREN L. CALDWELL
LAW OFFICES OF KAREN L CALDWELL
236 W PORTAL AVE # 119
SAN FRANCISCO, CA 94127

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

DUNCAN C. CARLING, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on October 17, 2017.



Bernadette Molina
Case Administrator
State Bar Court