

PUBLIC MATTER

FILED

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JUN 25 2018

STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

STATE BAR COURT OF CALIFORNIA

HEARING DEPARTMENT – LOS ANGELES

In the Matter of)
ERIC MOISES CAMILING,)
A Member of the State Bar, No. 237881.)
_____)
Case Nos. 16-O-13446-DFM (16-O-17501)
DECISION AND ORDER OF
INVOLUNTARY INACTIVE
ENROLLMENT

Respondent Eric Moises Camiling (Respondent) was charged with nine counts of violations of the Rules of Professional Conduct and the Business and Professions Code.¹ He failed to participate, either in person or through counsel, and his default was entered. The Office of Chief Trial Counsel of the State Bar of California (OCTC) 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, OCTC 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 October 26, 2005, and has been a member since then.

Procedural Requirements Have Been Satisfied

On November 21, 2017, OCTC properly filed and served a notice of disciplinary charges (NDC) on Respondent by certified mail, return receipt requested, to his membership records address. The NDC notified Respondent that his failure to participate in the proceeding would result in a disbarment recommendation. (Rule 5.41.) The NDC was returned as undeliverable on December 8, 2017.

Respondent failed to file a response to the NDC. On January 9, 2018, OCTC properly filed and served a motion for entry of Respondent's default by certified mail, return receipt requested. On the same day, OCTC attempted to reach Respondent by telephone and by email, but was unsuccessful. OCTC also left a voice mail.

The motion complied with all the requirements for a default, including a supporting declaration of reasonable diligence by OCTC senior trial counsel declaring the additional steps taken to provide notice to Respondent. (Rule 5.80.) The motion also notified Respondent that, if he did not timely move to set aside his default, the court would recommend his disbarment.

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).)

The next day, on January 10, 2018, Respondent telephoned Senior Trial Counsel Hugh G. Radigan, and discussed Respondent's prospective setting aside of the proposed default and his intent to respond to the NDC. Respondent also confirmed his telephone number and provided OCTC with additional email addresses and a new mailing address. OCTC then sent him copies of the NDC and motion to enter default. Despite this conversation and subsequent actions by OCTC, Respondent did not file a response to the motion, and his default was entered on January 25, 2018. The order entering the default was served on Respondent at his 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. He has remained inactively enrolled since that time.

Respondent did not seek to have his default set aside or vacated. (Rule 5.83(C)(1) [attorney has 90 days to file motion to set aside default].)

On May 2, 2018, OCTC properly filed and served the petition for disbarment on Respondent at his official membership records address. As required by rule 5.85(A), OCTC reported in the petition that: (1) Respondent contacted OCTC on January 10, 2018, but there has been no contact with Respondent since his default was entered; (2) there is no disciplinary 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 May 30, 2018.

Prior Record of Discipline

Respondent has one prior record of discipline. On May 9, 2012, Respondent was privately reprimanded for failing to communicate in one client matter.

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.) 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-13446 (Luengas Matter)

Count 1 – Respondent willfully violated rule 4-100(A) of the Rules of Professional Conduct (failure to maintain client funds in trust account) by failing to maintain client funds in the amount of \$500 on behalf of Respondent's client, Sharon Luengas, in a client trust account, on August 2, 2013.

Count 2 – Respondent willfully violated rule 4-100(B)(3) of the Rules of Professional Conduct (failure to render accounts of client funds) by failing to provide an accounting regarding the \$3,000 funds received from the client as advanced fees upon the termination of Respondent's employment on October 7, 2016.

Count 3 – Respondent willfully violated rule 3-700(D)(1) of the Rules of Professional Conduct (failure to return client papers/property) by failing to promptly release to Respondent's client the client's property and papers, despite the client's request on October 7, 2016.

Count 4 – Respondent willfully violated section 6068, subdivision (m) (failure to respond to reasonable client status inquiries and to inform client of significant development), by failing to respond to Respondent's client's multiple status inquiries between October 2015 and March 2016.

Count 5 – Respondent willfully violated section 6106 (moral turpitude, dishonesty, or corruption) by intentionally misappropriating \$500, which Respondent received on behalf of his client.

Case No. 16-O-17501 (Harris Matter)

Count 6 – Respondent willfully violated section 6068, subdivision (m), by failing to respond to Respondent's client's multiple status inquiries between June and October 2016.

Count 7 – 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 OCTC's February 17, March 20, and April 12, 2017 letters.

Count 8 – Respondent willfully violated rule 4-100(B)(3) of the Rules of Professional Conduct by failing to provide an accounting regarding the \$4,500 funds received from the client, Sean Harris, as advanced fees upon the termination of Respondent's employment on September 7, 2016.⁴

Count 9 – Respondent willfully violated rule 3-700(A)(2) of the Rules of Professional Conduct (improper withdrawal from employment) by failing to inform his client that he was withdrawing from employment and by failing to take reasonable steps to avoid reasonably foreseeable prejudice to the rights of his client when he constructively terminated his employment on September 7, 2016.

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 his default;

⁴ The NDC alleged that Respondent's employment terminated on October 28, 2016, in count 8 and constructively terminated on September 7, 2016, in count 9. Based on Respondent's failure to take any action after participating with opposing counsel to finalize a proposed final judgment on September 7, 2016, as alleged in count 9, the court finds that Respondent's employment termination date was September 7, 2016, and not October 28, 2016.

(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 his disbarment.

RECOMMENDATIONS

Disbarment

It is recommended that **Eric Moises Camiling**, State Bar number 237881, be disbarred from the practice of law in California and that his name be stricken from the roll of attorneys.

California Rules of Court, Rule 9.20

It is further recommended 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

It is further recommended that costs be awarded to the State Bar of California in accordance with Business and Professions Code section 6086.10, and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment. Unless the time for payment of discipline costs is extended pursuant to section 6086.10, subdivision (c), costs assessed against a member who is actually suspended or disbarred must be paid as a condition of reinstatement or return to active status.

ORDER OF INVOLUNTARY INACTIVE ENROLLMENT

In accordance with Business and Professions Code section 6007, subdivision (c)(4), the court orders **Eric Moises Camiling**, State Bar number 237881, 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: June 25, 2018



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 Court Specialist 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 June 25, 2018, 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:

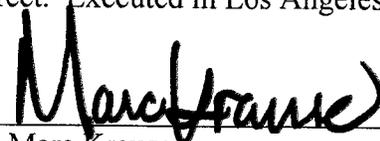
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

ERIC M. CAMILING
3200 E GUASTI RD
STE 100
ONTARIO, CA 91761 - 8661

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

HUGH GERARD RADIGAN, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on June 25, 2018.



Marc Krause
Court Specialist
State Bar Court