

PUBLIC MATTER

FILED

JAN 30 2018

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STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT - SAN FRANCISCO

In the Matter of)	Case Nos. 17-O-00987
)	(17-O-01642)-LMA
MAUREEN REILLY WAHL,)	
)	DECISION AND ORDER OF
A Member of the State Bar, No. 260986.)	INVOLUNTARY INACTIVE
)	ENROLLMENT

Respondent Maureen Reilly Wahl (Respondent) was charged with violations of the Business and Professions Code¹ and the State Bar Rules of Professional Conduct. She failed to file a response to the Notice of Disciplinary Charges (NDC) in this matter, 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 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 December 6, 2008, and has been a member since then.

Procedural Requirements Have Been Satisfied

On July 25, 2017, 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.) On July 28, 2017, the State Bar received a return receipt dated July 27, 2017, with a signature consistent with examples of Respondent's signature obtained during the State Bar investigation.

Thereafter, the State Bar (1) attempted to reach Respondent by telephone at her membership records telephone number and left a message on the voicemail service for Wahl Law; and (2) conducted a LexisNexis search for respondent which yielded an additional possible telephone number and attempted to reach Respondent at this telephone number.⁴

⁴ Before filing the NDC, on July 5, 2017, the State Bar emailed Respondent at her official membership records email address and attached a copy of the Notice of Intent to File Disciplinary Charges. 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).) On July 21, 2017, the complainant in case number 17-O-00987 notified the State Bar that Respondent had emailed the complainant using her official membership records email address. The State Bar emailed Respondent again at her official membership records email address on July 24, 2017, requesting a delivery receipt and a read receipt. On July 24, 2017, the State Bar received notification that delivery to Respondent's email was complete, but that "no delivery notification was sent by the destination server." The State Bar never received a response to its email to Respondent.

Respondent failed to file a response to the NDC. On August 28, 2017, the State Bar filed and properly served on Respondent by certified mail, return receipt requested, 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 September 13, 2017. 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 inactive 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.⁵

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 December 18, 2017, the State Bar filed and properly served a petition for disbarment on Respondent at her membership records address by certified mail, return receipt requested. 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 entered; (2) there are no other disciplinary matters 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 January 16, 2018.

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⁵ The State Bar Court received the signed return receipt dated September 15, 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 Numbers 17-O-00987 (17-O-01642)

Count One (case no. 17-O-00987) – Respondent willfully violated rule 3-110(A) of the Rules of Professional Conduct (failure to perform legal services with competence) in her representation of her client in a superior court case by (1) failing to issue a cease and desist letter to her client's former employer; (2) failing to consolidate a related small claims action with the superior court case; (3) advising her client not to appear in the small claims action, resulting in its dismissal; (4) failing to serve a motion to consolidate the two actions on opposing counsel; and (5) failing to appear at a hearing on the motion to consolidate.

Count Two (case nos. 17-O-00987; 17-O-01642) – Respondent willfully violated rule 3-110(A) of the Rules of Professional Conduct (failure to perform legal services with competence) in her representation of two clients in the superior court case by (1) failing to communicate with opposing counsel; (2) failing to respond to timely offers to meet and confer; (3) failing to participate in discovery; (4) failing to file a case management statement; (5) failing to make required appearances at case management conferences; and (6) failing to properly serve documents on opposing counsel.

Count Three (case nos. 17-O-00987; 17-O-01642) – Respondent willfully violated rule 3-510 of the Rules of Professional Conduct (failure to communicate settlement offer) on or about

January 11, 2017, when she did not properly communicate to her clients all the terms and conditions of a written offer of settlement made to the clients.

Count Four (case nos. 17-O-00987; 17-O-01642) – Respondent willfully violated rule 3-700(A)(2) of the Rules of Professional Conduct (improper withdrawal from employment) by constructively terminating her employment on or about January 11, 2017 when she failed to take any action on behalf of her clients after receiving a settlement offer in the superior court case, and thereafter failing to inform the clients that Respondent was withdrawing from employment.

Count Five (case nos. 17-O-00987; 17-O-01642) – Respondent willfully violated rule 3-700(D)(1) of the Rules of Professional Conduct (failure to release file) by failing to release promptly to her clients, after constructive termination of her employment, all of the clients' papers and property following a request for the clients' file made on May 2, 2017.

Count Six (case no. 17-O-01642) – Respondent willfully violated rule 3-700(D)(2) of the Rules of Professional Conduct (failure to return unearned fees) on or about January 11, 2017, by failing to promptly refund, upon Respondent's termination of employment, \$1,980 in unearned fees to her client.

Count Seven (case no. 17-O-00987) – 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 case number 17-O-00987.

Count Eight (case no. 17-O-01642) – 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 case number 17-O-01642.

Count Nine (case nos. 17-O-00987; 17-O-01642) – Respondent willfully violated section 6068, subdivision (j) (failure to update membership address), by failing to notify the State Bar of the change in her address within 30 days of the date she ceased operating her law practice out of the office at the address maintained on the official membership records of the State Bar.

Count Ten (case nos. 17-O-00987; 17-O-01642) – Respondent willfully violated section 6068, subdivision (m) (failure to respond to client inquiries), by failing to respond promptly to several reasonable status inquiries made by her clients between December 12, 2016 and February 9, 2017, including several telephonic inquiries, five email inquiries, one written inquiry, and one text message.

Count Eleven (case nos. 17-O-00987; 17-O-01642) – Respondent willfully violated section 6068, subdivision (m) (failure to inform client of significant development), by failing to inform her client that the superior court denied as moot the motion to consolidate a small claims action with the superior court case because the small claims action had already been dismissed.

Count Twelve (case nos. 17-O-00987; 17-O-01642) – Respondent willfully violated section 6106 (moral turpitude - misrepresentation), by committing acts involving moral turpitude, dishonesty, or corruption as follows: (1) On or about February 5, 2016, by stating in writing to her client that Respondent had mailed a “demand letter” to the client’s former employer at his business address, when Respondent knew or was grossly negligent in not knowing the statement was false; (2) On or about September 29, 2016, by stating to her client in an in-person meeting in Respondent’s office that the smalls claims case had been subsumed in the superior court case pursuant to Respondent’s motion to consolidate, when Respondent knew or was grossly negligent in not knowing the statement was false; and (3) On or about July 28, 2016, by stating to her clients in writing that the first round of discovery responses “was out” in

the superior court case, when Respondent knew or was grossly negligent in not knowing the statement was false.

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 Maureen Reilly Wahl, State Bar number 260986, 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 Matthew Carter in the amount of \$1,980 plus 10 percent interest per year from January 11, 2017. 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.

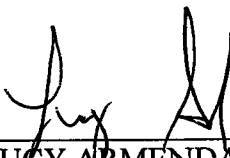
Costs

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.

ORDER OF INVOLUNTARY INACTIVE ENROLLMENT

In accordance with Business and Professions Code section 6007, subdivision (c)(4), the court orders that Maureen Reilly Wahl, State Bar number 260986, 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: January 30, 2018



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 January 30, 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 San Francisco, California, addressed as follows:

MAUREEN R. WAHL
WAHL LAW
132 JOHNSON ST
WINDSOR, CA 95492

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

BRITTA G. POMRANTZ, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on January 30, 2018.



Bernadette Molina
Case Administrator
State Bar Court