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STATE BAR COURT OF CALIFORNIA

HEARING DEPARTMENT - LOS ANGELES

In the Matter of)	Case No. 17-O-03119-LMA
)	
ELIZABETH ANN MELLO,)	DECISION AND ORDER OF
)	INVOLUNTARY INACTIVE
A Member of the State Bar, No. 244401.)	ENROLLMENT
_____)	

Elizabeth Ann Mello (Respondent) was charged with a single count 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 (State Bar) 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, the State Bar 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 November 22, 2006,³ and has been a member since then.

Procedural Requirements Have Been Satisfied

On August 1, 2017, the State Bar filed and properly served the NDC on Respondent by certified mail, return receipt requested, at Respondent's membership records address.⁴ The NDC notified Respondent that her failure to participate in the proceeding would result in a disbarment recommendation. (Rule 5.41.) Neither the return receipt nor the NDC were returned to the State Bar by the U.S. Postal Service.

The State Bar took additional steps to contact Respondent to provide her with notice about these proceedings. The State Bar: (1) sent a copy of the NDC by regular first-class mail to Respondent at her membership records address; (2) attempted to contact Respondent at her official membership records telephone number, but the number was disconnected; (3) left a message on Respondent's cellular phone number voicemail; (4) emailed Respondent at her membership records email address notifying her that the NDC had been filed; (5) attempted to contact Respondent at an alternate phone number; (6) emailed Respondent at three potential

³ The court notes that the NDC contains a typographical error indicating that Respondent was admitted to practice law on November 11, 2006.

⁴ The motion for entry of default indicates that a "Notice of Intent to Issue Notice of Disciplinary Charges" was mailed to Respondent by certified mail. However, the record indicates that the NDC was properly served on Respondent by certified mail on August 1, 2017.

alternate email addresses notifying her that the NDC had been filed; and (7) conducted an Internet search to obtain additional contact information for Respondent.

Respondent failed to file a timely response to the NDC. On August 30, 2017, the State Bar 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 the State Bar 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 September 15, 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 February 1, 2018, 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 are other matters pending against Respondent; (3) Respondent has two prior records 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 February 27, 2018.

Prior Record of Discipline

Respondent has two prior records of discipline. Pursuant to an order of the Supreme Court filed on June 26, 2014, Respondent was suspended for one year, stayed, and placed on

probation for one year subject to conditions, which included a 30-day period of actual suspension. Respondent stipulated that she was culpable of willfully violating section 6106 by falsely reporting to the State Bar that she was in compliance with the MCLE requirements when she knew she was not in compliance.

In her second prior, pursuant to an order of the Supreme Court filed on August 4, 2016, Respondent was suspended for two years, stayed, and placed on probation for two years subject to conditions, including a 60-day period of actual suspension. Respondent stipulated that she was culpable of willfully violating section 6068, subdivision (k), by failing to comply with the conditions of her probation in her first prior. She failed to timely submit to the Office of Probation one quarterly report, and failed to timely submit proof of completion of Ethics School.

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. 17-O-03119 (The Probation Violation Matter)

Count One – By failing to submit quarterly reports due on January 10, 2017, April 10, 2017, and July 10, 2017, Respondent failed to comply with certain conditions attached to the disciplinary probation in State Bar Court case number 16-O-11084, in willful violation of section 6068, subdivision (k) (duty to comply with probation conditions).

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 Elizabeth Ann Mello, State Bar number 244401, 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 Elizabeth Ann Mello, State Bar number 244401, 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: March 21, 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 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 San Francisco, on March 21, 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:

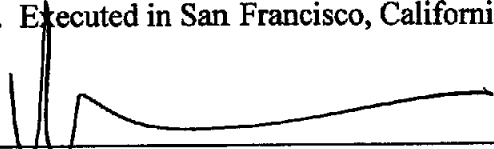
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

ELIZABETH A. MELLO
PO BOX 13205
COYOTE, CA 95013 - 3205

- 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 March 21, 2018.



Vincent Au
Court Specialist
State Bar Court