



PUBLIC MATTER

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STATE BAR COURT OF CALIFORNIA

HEARING DEPARTMENT – LOS ANGELES

FILED

WGS

MAY 14 2019

STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

In the Matter of)

Case No.: 17-O-06709-CV

CAROL BEDFORD,)

**DECISION AND ORDER OF
INVOLUNTARY INACTIVE
ENROLLMENT**

State Bar Number 110742.)

Respondent Carol Bedford is charged with six counts of misconduct involving a single client matter. Respondent failed to participate in this proceeding either in person or through counsel, and her default was entered. Thereafter, 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.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 if the attorney fails to have the default set aside or vacated within 90 days, OCTC will file a petition requesting that the State Bar Court recommend the attorney's disbarment.²

¹ Except where otherwise indicated, all further references to rules are to the Rules of Procedure of the State Bar.

² If the court determines that any due process requirement is not satisfied, including adequate notice to the attorney, the court will deny the petition for disbarment and take 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

Respondent was admitted to the practice of law in this state on December 20, 2007, and has been licensed to practice law in the State of California since that time.

Procedural Requirements Have Been Satisfied

On October 3, 2018, OCTC filed and properly served the NDC on respondent by certified mail, return receipt requested, at respondent's official State Bar record address. The NDC notified respondent that her failure to participate in the proceeding would result in a disbarment recommendation. (Rule 5.41(B)(3).) OCTC received a signed return receipt for the NDC from the United States Postal Service on October 9, 2018, which was signed by Cyndi Kusic, Agent.

On October 2, 2018, Respondent and the assigned Deputy Trial Counsel (DTC) participated in a confidential Early Neutral Evaluation Conference. After Respondent and the State Bar Court Judge who presided over that conference discussed the case, the judge advised the DTC that Respondent planned to proceed by way of default. On October 11, 2018, the DTC sent an email to Respondent at her official State Bar record email address asking her to confirm that she had received the NDC and whether she still wished to proceed by way of default. Later that same day, the DTC received a reply email from Respondent confirming her receipt of the NDC and stating "that, based on the information I have at this time, I intend to allow the matter to proceed by way of default."

Thereafter, respondent failed to file a response to the NDC. Respondent's response to the NDC was to have been filed no later than October 29, 2018. (Rules 5.28(A), 5.43(A).) And, on October 31, 2018, OCTC filed and served a motion for entry of default on respondent at her

official State Bar record address by certified mail, return receipt requested. (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 did not file a response to the motion for entry of default or to the NDC, and the court entered her default on November 30, 2018. The court properly served the default order on respondent at her official State Bar record address by certified mail, return receipt requested. In the default order, respondent was again advised that, if she did not timely move to set aside her default, the court would recommend her disbarment.

In the default order, the court also ordered that respondent be involuntarily enrolled inactive in accordance with Business and Professions Code section 6007, subdivision (e).³ Thereafter, on December 3, 2018, respondent was involuntarily enrolled inactive, and she has remained involuntarily enrolled inactive since that time.⁴

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].) Thus, on March 28, 2019, OCTC filed and properly served a petition for disbarment on respondent at her official State Bar record address by certified mail, return receipt requested.

As required by rule 5.85(A), OCTC reported in the petition that (1) respondent has not contacted OCTC since her default was entered on November 30, 2018; (2) there are no other disciplinary matters pending against respondent; (3) respondent has one prior record of discipline; and (4) the Client Security Fund has not paid out any claims resulting from respondent's conduct in this matter. Respondent did not respond to the petition for disbarment or move to set aside or vacate the default.

³ All further statutory references are to the Business and Professions Code.

⁴ Attorneys enrolled inactive cannot lawfully practice law. (§§ 6125, 6126.)

The court took OCTC's petition for disbarment under submission for decision on April 17, 2019.

Prior Record of Discipline⁵

On April 14, 1997, the State Bar Court filed an order in case number 95-O-13623, styled *In the Matter of Carol Archer, Bar No. 110742*, imposing, on Respondent, a private reproof with various conditions attached for a period of one year. The State Bar Court imposed that private reproof on Respondent in accordance with a stipulation as to facts and discipline that Respondent entered into with OCTC in case number 95-O-13623. In that stipulation, Respondent stipulated that she willfully violated former rule 3-110(A) of the State Bar Rules of Professional Conduct (failure to perform legal services with competence) and (2) that she willfully violated section 6068, subdivision (m) (failure to communicate).

In mitigation, respondent had no prior record of discipline. There was no aggravation.

The Factual Allegations Deemed Admitted by Default Warrant the Imposition of Discipline

Under section 6088 and rule 5.82, the factual allegations set forth in the NDC are deemed admitted by the entry of respondent's default. As set forth in greater detail below, the admitted factual allegations support a finding that respondent is culpable on five of the six counts of charged misconduct. Therefore, the factual allegations in the NDC admitted by default "support a finding that [respondent] violated a statute, rule or court order that would warrant the imposition of discipline." (Rule 5.85(F)(1)(d).)

Case Number 17-O-06709 (Schultz Matter)

Count One – Respondent willfully violated section 6106 (moral turpitude – misappropriation) by misappropriating \$56,371.37 in client funds.

⁵ The court admits into evidence the certified copy of Respondent's prior record of discipline, which is attached as exhibit 1 to the DTC's declaration in support of OCTC's March 28, 2019, petition for disbarment.

Count Two charges Respondent with willfully violating section 6106 (moral turpitude). However, the factual allegations in count two are convoluted and unclear and fail to provide Respondent with adequate notice of the charges against her. Moreover, the court declines to guess as to the exact factual basis of the alleged section 6106 violation in count two. In sum, count two is DISMISSED with prejudice.

Count Three – Respondent willfully violated section 6068, subdivision (m) (failure to communicate) by failing to promptly respond to her client's reasonable status inquiries.

Count Four – Respondent willfully violated section 6068, subdivision (i) (failure to cooperate/participate in a disciplinary investigation) by failing to provide a substantive response to the State Bar investigation letters.

Count Five – Respondent willfully violated former rule 3-110(A) of the State Bar Rules of Professional Conduct (failure to competently perform legal services) by collecting \$58,736.81 on behalf of an estate and not distributing any of the funds to the beneficiary.

Count Six – Respondent willfully violated former rule 4-100(B)(3) of the State Bar Rules of Professional Conduct (failure to account for client funds) by failing to provide, in accordance with the client's request, an accounting of the funds Respondent received and held in trust for the client.

Disbarment is Recommended

In light of the foregoing, the court finds 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 and Respondent was actually notified of the proceedings before the entry of her default;
- (3) respondent's default was properly entered under rule 5.80; and

(4) the factual allegations in the NDC deemed admitted by the entry of respondent's default support a finding that respondent violated a statute, rule, or court order that would warrant the imposition of discipline.

Despite adequate and actual 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 will recommend disbarment.

RECOMMENDATIONS

Discipline - Disbarment

It is recommended that Carol Bedford, State Bar Number 110742, be disbarred from the practice of law in California and that her name be stricken from the roll of attorneys.

Restitution

It is further recommended that Carol Bedford be ordered to make restitution in the amount of \$56,371.37 plus 10 percent interest per year from June 2, 2008, to James Schultz or such other recipient as may be designated by the Office of Probation or the State Bar Court (or reimburse the Client Security Fund to the extent of any payment from the Fund to such payee in accordance with Business and Professions Code section 6140.5). 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

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 imposing discipline in this matter.⁶ Failure to do so may result in disbarment or suspension.

Costs

It is further recommended that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and that the costs be 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 subdivision (c) of section 6086.10, costs assessed against a member who is actually suspended or disbarred must be paid as a condition of return to active status or reinstatement.

ORDER OF INVOLUNTARY INACTIVE ENROLLMENT

In accordance with Business and Professions Code section 6007, subdivision (c)(4), the court orders that Carol Bedford, State Bar number 110742, be involuntarily enrolled inactive effective three calendar days after the service of this decision and order by mail. (Rules Proc. of State Bar, rule 5.111(D).)

Dated: May 13, 2019.


CYNTHIA VALENZUELA
Judge of the State Bar Court

⁶ For purposes of compliance with rule 9.20(a), the operative date for identification of “clients being represented in pending matters” and others to be notified is the filing date of the Supreme Court order, not any later “effective” date of the order. (*Athearn v. State Bar* (1982) 32 Cal.3d 38, 45.) Further, Respondent is required to file a rule 9.20(c) affidavit even if Respondent has no clients to notify on the date the Supreme Court filed its order in this proceeding. (*Powers v. State Bar* (1988) 44 Cal.3d 337, 341.) In addition to being punished as a crime or contempt, an attorney’s failure to comply with rule 9.20 is, inter alia, cause for disbarment, suspension, revocation of any pending disciplinary probation, and denial of an application for reinstatement after disbarment. (Cal. Rules of Court, rule 9.20(d).)

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 May 14, 2019, 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:

Carol Bedford
5173 Waring Rd., Ste 248
San Diego, CA 92120-2705

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

Scott Karpf, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on May 14, 2019.



Paul Songco
Court Specialist
State Bar Court