

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – SAN FRANCISCO

In the Matter of) Case No.: **12-O-14373-LMA**
)
RAMINA AMY YOUSEFI,) **DECISION AND ORDER OF INVOLUNTARY**
) **INACTIVE ENROLLMENT**
)
Member No. 260035,)
)
A Member of the State Bar.)

Respondent Ramina Amy Yousefi (respondent) is charged with two violations of the Business and Professions Code and the Rules of Professional Conduct in connection with a single client matter. She failed to participate either in person or through counsel, and her default was entered. The Office of the 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 180 days, the State Bar will file a petition requesting the court to 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 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(E)(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 practice law in this state on December 4, 2008, and has been a member since then.

Procedural Requirements Have Been Satisfied

On October 2, 2012, the State Bar filed and properly served the NDC on respondent by certified mail, return receipt requested, at respondent's membership-records address. The NDC notified respondent that her failure to participate in the proceeding would result in a disbarment recommendation. (Rule 5.41.) The State Bar received the return receipt on October 9, 2012, signed by V. Kleingart.

On November 30, 2012, the State Bar (1) sent a courtesy copy of the NDC to respondent by regular first class mail at an alternative address that the State Bar had for respondent in its file (this copy was not returned to the State Bar); (2) attempted to fax the NDC to respondent at her membership-records fax number; (3) attempted to telephone respondent by calling her at her membership-records telephone number and at two alternative telephone numbers that the State Bar has for respondent in its file; (4) sent emails to respondent both at her membership-records email address and at a private email address;³ and (5) conducted a Google search in an attempt to find additional addresses for respondent. Then, on December 4, 2012, the State Bar called Directory Assistance in an attempt to find additional telephone numbers for respondent.

Respondent failed to file a response to the NDC. On December 4, 2012, the State Bar filed a motion for entry of respondent's default and properly served that motion on respondent

³ 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).)

both at her membership-records address and at an alternative address by certified mail, return receipt requested. The return receipt for the motion for entry of default was signed by Michelle Copeland on December 7, 2012. 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 December 20, 2012. 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),⁴ effective three days after service of the order, and she has remained inactively enrolled since that time. The State Bar Court received the return receipt for the order entering default on December 26, 2012, signed by V. Kleingart.

Respondent did not seek to have her default set aside or vacated. (Rule 5.83(C)(1) [attorney has 180 days to file motion to set aside default].) On June 25, 2013, the State Bar filed the petition for disbarment. As required by rule 5.85(A), the State Bar reported in the petition that: (1) the State Bar has not had any contact with respondent since the default was entered in December 2012; (2) there are three non-public disciplinary investigation matters pending against respondent; (3) respondent has no prior record of discipline; and (4) the Client Security Fund has not made any payments resulting from respondent's misconduct. 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 July 23, 2013.

⁴ All further statutory references are to the Business and Professions Code.

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 of the rule and statutory violations as charged and, therefore, violated a statute, rule, or court order that would warrant the imposition of discipline. (Rule 5.85(E)(1)(d).)

Case Number 12-O-14373 (Stewart Matter)

Count One – Respondent willfully violated State Bar Rules of Professional Conduct, rule 4-100(B)(3) [render appropriate accounts] by failing to provide an accounting to her client.

Count Two – Respondent willfully violated section 6106 (moral turpitude – misappropriation) by misappropriating client funds in the amount of \$1,000.

Disbarment is Recommended

Based on the above, the court concludes that the requirements of rule 5.85(E) 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, such as serving the NDC on respondent by certified mail at her membership-records address and at an alternative address; attempting to telephone respondent at her membership-records telephone number and two alternative telephone numbers; attempting to fax the NDC to respondent at her membership-records fax number; sending respondent an email at two email addresses; conducting a Google search for additional addresses for respondent; and calling Directory Assistance in an attempt to find additional telephone numbers for respondent;
- (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 Ramina Amy Yousefi 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 further recommends that Ramina Amy Yousefi be ordered to make restitution to Beneaver Stewart in the amount of \$1,000 plus 10 percent interest per year from December 1, 2011.

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.

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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 Ramina Amy Yousefi, State Bar Number 260035, 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. (Rules Proc. of State Bar, rule 5.111(D).)

Dated: September ____, 2013.

LUCY ARMENDARIZ
Judge of the State Bar Court