

PUBLIC MATTER

STATE BAR COURT OF CALIFORNIA

HEARING DEPARTMENT – LOS ANGELES

FILED

JUN 15 2015

STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

In the Matter of)	Case Nos.: 14-O-02066, 14-O-02777-DFM
)	
SVITLANA E. SANGARY,)	
)	DECISION AND ORDER OF
Member No. 232282,)	INVOLUNTARY INACTIVE
)	ENROLLMENT
<u>A Member of the State Bar.</u>)	

Respondent **Svitlana E. Sangary** (Respondent) was charged with seven counts of violations of the Rules of Professional Conduct and the Business and Professions Code.¹ 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.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 (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

Respondent was admitted to practice law in California on November 24, 2004, and has been a member since then.

Procedural Requirements Have Been Satisfied

On September 23, 2014, the State Bar properly filed and served the NDC on Respondent by certified mail, return receipt requested, to her membership records address. The return card was returned to the State Bar signed by Lorena Chavet. The NDC notified Respondent that her failure to participate in the proceeding would result in a disbarment recommendation. (Rule 5.41.) On October 6, 2014, the State Bar sent Respondent a copy of the NDC by email. It was not returned as undeliverable.

On October 14, 2014, the State Bar left a message at Respondent's official membership records telephone number, informing her that her response to the NDC was due on October 20, 2014. To date, Respondent has not contacted the State Bar.

Respondent failed to file a response to the NDC. On October 21, 2014, the State Bar properly filed and served a motion for entry of Respondent's default. The motion complied with all the requirements for a default, including a supporting declaration of reasonable diligence by the State Bar senior 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. The State Bar received a return receipt signed by "Adam." Respondent did not file a response to the motion, and her default was entered on November 14, 2014. 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.

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 February 18, 2015, 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 three investigative matters pending against Respondent; (3) Respondent has one record of prior 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 March 24, 2015.

Prior Record Of Discipline

Respondent has a record of prior discipline.⁴ Pursuant to an order of the Supreme Court filed on March 27, 2015,⁵ Respondent was suspended for two years, the execution of which was stayed, and placed on probation for three years subject to conditions including that she be suspended from the practice of law for six months. She was found culpable of deceptive advertising, failure to promptly release a client file, and failure to cooperate with the State Bar.

⁴ The court admits into evidence the certified copy of Respondent's record of prior discipline that was attached to the State Bar's February 18, 2015 petition for disbarment after default.

⁵ The court takes judicial notice of the Supreme Court order (case No. S224058) regarding this prior discipline since it was filed March 27, 2015, after the State Bar had filed its petition for disbarment. The court admits it into evidence and directs the Clerk to include a copy in the record of this case.

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

Case Number 14-O-02066 (Aklyan Matter)

Count 1 – Respondent willfully violated rule 3-110(A) of the Rules of Professional Conduct (failure to perform legal services with competence) by failing to properly serve the summons and complaint prepared for her client, Norayr Aklyan and by failing to appear at a case management conference on behalf of the client.

Count 2 – 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 her client's email.

Count 3 – Respondent willfully violated rule 3-700(D)(2) of the Rules of Professional Conduct (failure to return unearned fees) by failing to return to Norayr Aklyan upon termination of her employment on November 6, 2013, any portion of the \$5,000 of unearned attorney fees.

Count 4 – 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 the State Bar's letter of May 7, 2014, as requested by the State Bar investigator.

Case Number 14-O-02777 (Judicial Sanctions Matter)

Count 5 – Respondent willfully violated section 6068, subdivision (o)(3) (failure to report judicial sanctions), by failing to report the \$1,537.95 court sanctions ordered by the Orange County Superior Court on October 8, 2013.

Count 6 – Respondent willfully violated section 6068, subdivision (o)(3) (failure to report judicial sanctions), by failing to report the \$3,337.95 court sanctions ordered by the Orange County Superior Court on March 11, 2014.

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 the State Bar’s letter of June 18, 2014, as requested by the State Bar investigator.

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 her disbarment.

RECOMMENDATION

Disbarment

The court recommends that respondent **Svitlana E. Sangary**, State Bar number 232282, 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 Norayr Aklyan in the amount of \$5,000, plus 10 percent interest per year from November 6, 2013. 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.

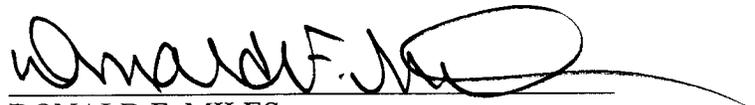
Costs

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 **Svitlana E. Sangary**, State Bar number 232282, 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 15, 2015


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 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 Los Angeles, on June 15, 2015, 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:

SVITLANA E. SANGARY
LAW OFC SVITLANA E SANGARY
12100 WILSHIRE BVLD #800
LOS ANGELES, CA 90025

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

ELI MORGENSTERN, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on June 15, 2015.



Rose M. Luthi
Case Administrator
State Bar Court