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MAR 23 2019

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – SAN FRANCISCO

STATE BAR COURT CLERK'S OFFICE
SAN FRANCISCO

In the Matter of)	Case Nos. 15-O-11352
)	(16-O-17856)-MC
KATHRYN LYNN REYNOLDS,)	
)	DECISION AND ORDER OF
State Bar No. 206554.)	INVOLUNTARY INACTIVE
)	ENROLLMENT

In this matter, Respondent Kathryn Lynn Reynolds was charged with violations of the California Rules of Professional Conduct and the Business and Professions Code. Even though Respondent had notice of the trial date, she failed to appear at the trial, and her default was entered. 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 appear at trial after receiving adequate notice and opportunity. The rule provides that, if an attorney's default is entered for failing to appear at trial and the attorney fails to have the default set aside or vacated within 45 days, OCTC will file a petition requesting the court to recommend the attorney's disbarment.²

The court concludes that the requirements of rule 5.85 have been satisfied, grants the petition, and recommends that Respondent be disbarred from the practice of law.

¹ Unless otherwise indicated, all references to rules are to this source.

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).)

FINDINGS AND CONCLUSIONS

Respondent was admitted to practice law in this state on May 5, 2000, and has since been a licensed attorney of the State Bar.

Procedural Requirements Have Been Satisfied

On August 14, 2018, OCTC filed and properly served a notice of disciplinary charges (NDC) in case numbers 15-O-11352 and 16-O-17856 on Respondent at her official State Bar attorney record address by certified mail, return receipt requested. The NDC notified Respondent that her failure to appear at the State Bar Court trial would result in a disbarment recommendation. (Rule 5.41.)

Respondent filed a verified answer to the NDC on August 28, 2018. On the same date, Respondent filed an ex parte motion for dismissal or for continuance of the September 17 status conference, discovery, and any appearances or motions due to medical issues, along with a declaration in support. On August 31, OCTC filed an opposition to Respondent's motion to dismiss. On September 13, the court denied Respondent's motion to dismiss and motion for continuance as no good cause was shown, but authorized Respondent to appear telephonically at the status and pretrial conferences. Respondent was still required to appear in person for trial. Respondent did not appear for the September 17 status conference where the matter was scheduled for trial from December 11-14, 2018. The order setting forth the trial date was filed and served on September 18, by first-class mail, postage paid, addressed to Respondent at her official State Bar attorney record address.

Respondent did not appear for the December 3, 2018 pretrial conference. In its minute order, the court cautioned that Respondent's failure to appear at trial would result in the entry of default and, if Respondent failed to timely move to set aside the default, the court would recommend disbarment without further hearing or proceeding. This order was served on

December 4, by first-class mail, postage paid, addressed to Respondent at her official State Bar attorney record address.

On December 11, 2018, OCTC appeared for trial but Respondent did not. Finding that all of the requirements of rule 5.81(A) were satisfied, the court issued an order entering Respondent's default that same day. The order notified Respondent that if she did not timely move to set aside or vacate her default, the court would recommend her disbarment. The order also placed Respondent on involuntary inactive status under Business and Professions Code section 6007, subdivision (e), effective three days after service of the order. Respondent has remained inactive since that time. The order was properly served on December 11 by certified mail, return receipt requested, addressed to Respondent at her official State Bar attorney record address. (Rule 5.81(B).).

Respondent did not seek to have her default set aside or vacated. (Rule 5.83(C)(2) [attorney has 45 days after order entering default is served to file motion to set aside default].) On February 8, 2019, OCTC properly filed and served a petition for disbarment. As required by rule 5.85(A), OCTC reported in the petition that: (1) it had contact with Respondent since the entry of her default³; (2) Respondent has no other investigations or disciplinary matters pending; (3) Respondent does not have a prior record of discipline; and (4) the Client Security Fund has not made 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 March 6, 2019.

³ On January 7, 2019, the deputy trial counsel (DTC) assigned to this matter received a copy of a letter from Respondent entitled "Claim for Tort Damages Against at least all the named Actors Herein," addressed to various Nevada county employees. This letter contained no reference to Respondent's default. The DTC stated that she had not received any other contact from Respondent regarding her default or the allegations against her since the entry of her default on December 11, 2018.

The Admitted Factual Allegations Warrant the Imposition of Discipline

Upon entry of Respondent's default, the factual allegations set forth 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, 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 15-O-11352 (Nutri Matter)

Count One – Respondent willfully violated Business and Professions Code section 6068, subdivision (c) (maintaining an unjust action), by filing a motion for summary judgment and a motion to disqualify in two Nevada County Superior Court cases that were frivolous, without merit, and prosecuted for improper purpose and for the purpose of delay.

Count Two – Respondent willfully violated rule 3-110(A) of the Rules of Professional Conduct (failing to perform legal services with competence), by filing a frivolous motion for summary judgment and failing to advise her clients that they could be responsible for attorney's fees and costs.

Count Three – Respondent willfully violated Business and Professions Code section 6103 (violation of a court order), by failing to comply with the Nevada County Superior Court order requiring Respondent to pay sanctions in the amount of \$5,000.

Count Four – Respondent willfully violated rule 3-700(D)(1) of the Rules of Professional Conduct (failing to promptly release client papers/property) by failing to return her client's papers and property to the client following the client's request for the file.

Count Five – Respondent willfully violated rule 3-700(D)(2) of the Rules of Professional Conduct (failure to refund unearned fees) by failing to promptly refund, upon her termination, any of the \$92,003.58 in unearned advanced fees that she had received from her client.

Count Six – Respondent willfully violated rule 4-100(B)(3) of the Rules of Professional Conduct (failure to render appropriate accounts), by failing, following the termination of her employment, to render an appropriate accounting to her client regarding the \$92,003.58 in advanced fees that she had received for legal services to be performed in a loan modification matter.

Count Seven – Respondent willfully violated Business and Professions Code section 6106.3 (engage in conduct in violation of California Civil Code section 2944.6 (a)) by failing to provide to her clients, prior to entering into a fee agreement to perform a mortgage loan forbearance, a separate written statement that the client can deal directly with their lender and it is not necessary to pay a third party to negotiate a loan modification matter.

Count Eight – Respondent willfully violated Business and Professions Code section 6068, subdivision (a) (attorney’s duty to support Constitution and laws of United States and California) by receiving \$92,003.58 from her clients before fully performing the service she was contracted to perform or represented that she would perform in violation of Civil Code section 2944.7.

Count Nine – Respondent willfully violated rule 4-200(A) of the Rules of Professional Conduct (illegal fee) by obtaining \$92,003.58 from her clients before fully performing each and every mortgage loan forbearance service she had been contracted to perform or represented that she would perform in violation of Civil Code section 2944.7.

Case Number 16-O-17856

Count Ten – Respondent willfully violated Business and Professions Code section 6068, subdivision (b) (duty to maintain respect due to courts and judicial officers) by making statements in a motion to disqualify that a judge was a “bounty hunter,” that a judge suppressed evidence, and that Nevada County court employees were part of a “rigged system” engaged in

“defrauding the public” using “corrupted records,” when Respondent knew or was grossly negligent in not knowing the statements were false.

Count Eleven – Respondent willfully violated Business and Professions Code section 6106 (moral turpitude – misrepresentation) by making written statements in a motion to disqualify submitted to the Nevada County Superior Court that the judge “acts as a Bounty Hunter for the banks, in complete disregard of the law,” that a judge suppressed evidence, and that Nevada County court employees were part of a “rigged system” engaged in “defrauding the public” using “corrupted records,” when Respondent knew or was grossly negligent in not knowing that the information was false.

Disbarment is Recommended

Based on the above, the court concludes that the requirements of rule 5.85(F) have been satisfied. Despite actual notice and opportunity, Respondent failed to appear for the trial in this disciplinary proceeding. As set forth in the Rules of Procedure of the State Bar, the court recommends disbarment. In particular:

- (1) the NDC was properly served on Respondent under rule 5.25;
- (2) Respondent had actual notice of this proceeding and adequate notice of the trial date prior to the entry of her default;
- (3) the default was properly entered under rule 5.81; and
- (4) the factual allegations in the NDC, deemed admitted by the entry of default, support a finding that Respondent violated a statute, rule, or court order that would warrant the imposition of discipline.

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RECOMMENDATION

Disbarment

The court recommends that respondent Kathryn Lynn Reynolds be disbarred from the practice of law in the State of California and that her name be stricken from the roll of attorneys.

Restitution

It is further recommended that Respondent make restitution to Michael Nuti or such other recipient as may be designated by the Office of Probation or the State Bar Court, in the amount of \$92,003.58 plus 10 percent interest per year from April 1, 2015. 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 in this proceeding.⁴ 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, such costs being enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment. Unless the time for

⁴ 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).)

payment of discipline costs is extended pursuant to subdivision (c) of section 6086.10, costs assessed against a licensed attorney of the State Bar who is actually suspended or disbarred must be paid as a condition of reinstatement or return to active status.

ORDER OF INVOLUNTARY INACTIVE ENROLLMENT

In accordance with Business and Professions Code section 6007, subdivision (c)(4), the court orders that Kathryn Lynn Reynolds, State Bar number 206554, be involuntarily enrolled as an inactive licensed attorney of the State Bar of California, effective three calendar days after the service of this decision and order. (Rule 5.111(D).)

Dated: March 28, 2019

MANJARI CHAWLA

MANJARI CHAWLA
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 28, 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 San Francisco, California, addressed as follows:

KATHRYN L. REYNOLDS
PO BOX 3456
TRUCKEE, CA 96160 - 3456

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

Christina M. Lauridsen, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on March 28, 2019.



Vincent Au
Court Specialist
State Bar Court