



PUBLIC MATTER

FILED ✓

AUG 28 2018

STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

STATE BAR COURT OF CALIFORNIA

HEARING DEPARTMENT – LOS ANGELES

In the Matter of)	Case Nos. 17-O-02603
)	(17-O-02706)-DFM
LINDSAY ELIZABETH VOSE,)	
)	DECISION AND ORDER OF
A Member of the State Bar, No. 282377.)	INVOLUNTARY INACTIVE
_____)	ENROLLMENT

Lindsay Elizabeth Vose (Respondent) was charged with ten counts 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 (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 the attorney fails to have the default set aside or vacated within 90 days, OCTC 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 April 27, 2012, and has been a member since then.

Procedural Requirements Have Been Satisfied

On February 12, 2018, OCTC 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.) On February 20, 2018, OCTC received the return receipt card that was signed by "C. DeValle."

Respondent received actual notice of these proceedings. On February 23, 2018, Respondent left a message with OCTC indicating that she had received information regarding the filing of the NDC and left a cellular phone number where OCTC could return her call. Thereafter, OCTC called Respondent at the cellular phone number previously given and left a voicemail message for Respondent to contact OCTC. Later, on March 9, 2018, OCTC called Respondent at her cellular phone number and left a voicemail message indicating that she had failed to file a response to the NDC.

Respondent failed to file a timely response to the NDC. On March 19, 2018, OCTC 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 OCTC 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 April 9, 2018. 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 July 19, 2018, OCTC properly filed and served the petition for disbarment on Respondent at her membership records address. As required by rule 5.85(A), OCTC reported in the petition that: (1) there has been no contact with Respondent since her default was entered; (2) there are other disciplinary matters pending against Respondent; (3) Respondent has no prior record 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 August 14, 2018.

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 No. 17-O-02603 (The Beltran Matter)

Count One - Respondent willfully violated rule 3-110(A) of the Rules of Professional Conduct (failure to perform with competence) by repeatedly failing to perform any services for which she was retained.

Count Two - Respondent willfully violated rule 3-310(F) of the Rules of Professional Conduct (accepting fees from a non-client) by accepting \$1,100 from a third party, Graciela Hernandez, as compensation for representing a client, Marco Beltran, without obtaining the client's informed written consent.

Count Three - Respondent willfully violated section 6106 (moral turpitude – misrepresentation) by intentionally making a misrepresentation to her client's representative when Respondent falsely stated that she had filed a motion to withdraw a guilty plea on behalf of the client.

Count Four - Respondent willfully violated rule 4-100(B)(3) of the Rules of Professional Conduct (failure to render an accounting) by failing to provide her client or her client's representative with an accounting of the \$1,100 advance fee that Respondent received on behalf of her client, notwithstanding a request for such an accounting.

Count Five - Respondent willfully violated rule 3-700(D)(2) (failure to refund unearned fees) by failing to promptly refund, upon termination of her employment, any part of the unearned \$1,100 advanced fee paid on behalf of Respondent's client, as Respondent performed no services on behalf of her client for which she was retained.

Count Six - Respondent willfully violated section 6068, subdivision (i) (failure to cooperate), by failing to provide a substantive response to two OCTC letters received by Respondent and requesting a response to the allegations of misconduct being investigated.

Case No. 17-O-02706 (The Shaikh Matter)

Count Seven - Respondent willfully violated rule 3-110(A) of the Rules of Professional Conduct by repeatedly failing to perform any services for which she was retained.

Count Eight - Respondent willfully violated section 6106 by intentionally making a false and misleading statement to her client, Mehvish Shaikh (Shaikh), which falsely indicated that a bench warrant had been recalled and that the court would notify her of any upcoming dates.

Count Nine - Respondent willfully violated rule 3-700(D)(2) by failing to promptly refund, upon termination of her employment, any part of the unearned \$300 advanced fee that Respondent's client Shaikh had paid, as Respondent performed no services on behalf of her client for which she was retained.

Count Ten - Respondent willfully violated section 6068, subdivision (i), by failing to provide a substantive response to two OCTC letters received by Respondent and requesting a response to the allegations of misconduct being investigated.

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 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 recommends disbarment.

RECOMMENDATION

Disbarment

The court recommends that respondent Lindsay Elizabeth Vose, State Bar number 282377, 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 make restitution to the following payees or such other recipient as may be designated by the Office of Probation or the State Bar Court:

- a. Respondent must make restitution to Graciela Hernandez in the amount of \$1,100 plus 10 percent interest per year from February 24, 2017; and
- b. Respondent must make restitution to Mehvish Shaikh in the amount of \$300 plus 10 percent interest per year from April 28, 2017.

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 Lindsay Elizabeth Vose, State Bar number 282377, 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: August 28, 2018



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 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 August 28, 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 Los Angeles, California, addressed as follows:

LINDSAY E. VOSE
2707 E 10TH ST
LONG BEACH, CA 90804 - 4701

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

MURRAY B. GREENBERG, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on August 28, 2018.



Mazie Yip
Court Specialist
State Bar Court