

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

M245373
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WILLIAM F. MASTRO, J.P.
MARK C. DILLON
JOHN M. LEVENTHAL
CHERYL E. CHAMBERS
L. PRISCILLA HALL, JJ.

2017-06081

DECISION & ORDER ON MOTION

In the Matter of Keisha Dixon, admitted
as Keisha Natasha Dixon, an attorney
and counselor-at-law.

Grievance Committee for the Ninth
Judicial District, petitioner;
Keisha Dixon, respondent.

(Attorney Registration No. 4080826)

Renewed motion by the Grievance Committee for the Ninth Judicial District (1) to immediately suspend the respondent from the practice of law, pursuant to 22 NYCRR 1240.9(a)(3) and (5), upon a finding that she is guilty of professional misconduct immediately threatening the public interest based upon her failure to comply with the lawful demands of the Grievance Committee and other uncontroverted evidence of professional misconduct; (2) to provide notice to the respondent, pursuant to 22 NYCRR 1240.9(b), that she may be disbarred by the Court without further notice in the event that she fails to respond to or appear for further investigatory or disciplinary proceedings within six months; and (3) to refer the issues raised to a Special Referee, to hear and report. Separate motion by the Grievance Committee for the Ninth Judicial District to deem as established the charges of professional misconduct set forth in a verified petition dated June 7, 2017, based upon the respondent's default in filing an answer and to impose such discipline upon the respondent as the Court may deem appropriate. Application by the respondent for leave to serve and file a late answer. The respondent was admitted to the Bar at a term of the Appellate Division of the Supreme Court in the Second Judicial Department on September 18, 2002, under the name Keisha Natasha Dixon.

Upon the papers filed in support of the motions and the papers filed in opposition thereto, and upon the papers filed in support of the application and no papers having been filed in opposition or in relation thereto, it is

February 1, 2018

MATTER OF DIXON, KEISHA

Page 1.

ORDERED that the renewed motion to immediately suspend the respondent, Keisha Dixon, admitted as Keisha Natasha Dixon, from the practice of law, to provide notice to the respondent, pursuant to 22 NYCRR 1240.9(b), that she may be disbarred, and to refer the issues raised to a Special Referee, to hear and report is granted; and it is further,

ORDERED that pursuant to 22 NYCRR 1240.9(a)(5), the respondent, Keisha Dixon, admitted as Keisha Natasha Dixon, is immediately suspended from the practice of law in the State of New York, pending further order of the Court; and it is further,

ORDERED that the respondent, Keisha Dixon, admitted as Keisha Natasha Dixon, shall promptly comply with this Court's rules governing the conduct of disbarred or suspended attorneys (*see* 22 NYCRR 1240.15); and it is further,

ORDERED that pursuant to Judiciary Law § 90, during the period of suspension and until further order of this Court, the respondent, Keisha Dixon, admitted as Keisha Natasha Dixon, is commanded to desist and refrain from (1) practicing law in any form, either as principal or agent, clerk, or employee of another, (2) appearing as an attorney or counselor-at-law before any court, Judge, Justice, board, commission, or other public authority, (3) giving to another an opinion as to the law or its application or any advice in relation thereto, and (4) holding herself out in any way as an attorney and counselor-at-law; and it is further,

ORDERED that if the respondent, Keisha Dixon, admitted as Keisha Natasha Dixon, has been issued a secure pass by the Office of Court Administration, it shall be returned forthwith to the issuing agency and the respondent shall certify to the same in her affidavit of compliance pursuant to 22 NYCRR 1240.15(f); and it is further,

ORDERED that the issues raised are referred to the Hon. Alfred J. Weiner, c/o Mandel Katz & Brosnan LLP, 210 Route 303, Valley Cottage, NY 10989, as Special Referee, to hear and report, with the hearing to be completed within 60 days of the date of this decision and order on motion, or as soon as practicable, and to submit a report, which contains his findings on the issues and charges, within 60 days after the conclusion of the hearing or the submission of post-hearing memoranda; and it is further,

ORDERED that pursuant to 22 NYCRR 1240.9(b), in the event the respondent, Keisha Dixon, admitted as Keisha Natasha Dixon, fails to respond to or appear for further investigatory or disciplinary proceedings within six months of this decision and order on motion, she may be disbarred by the Court without further notice; and it is further

ORDERED that the motion to deem as established the charges contained in the verified petition dated June 7, 2017, based upon the respondent's default in filing an answer and to impose such discipline upon the respondent as the Court may deem appropriate is denied; and it is further,

ORDERED that the application is granted, and the respondent shall serve an answer to the verified petition dated June 7, 2017, upon the Grievance Committee and the Special Referee,

and file the original answer with this Court within 10 days after service of a copy of this decision and order on motion upon her; and it is further,

ORDERED that within 10 days after receipt of a copy of this decision and order on motion, the Grievance Committee shall serve a copy of this decision and order on motion upon the respondent and shall file proof of service with this Court.

We find, prima facie, that the respondent is guilty of professional misconduct immediately threatening the public interest based on the uncontroverted evidence that she misappropriated down payment funds entrusted to her as a fiduciary.

On October 26, 2015, the Grievance Committee for the Ninth Judicial District received a complaint of professional conduct against the respondent from Yaakov Scharman. According to the complaint, in January 2014, Scharman's company contracted with the respondent's client to purchase her interest in real property located in Brooklyn, New York. The respondent received a down payment check in the sum \$38,500 for the transaction. Scharman stated that the property was sold to another party on September 21, 2015, and, notwithstanding his attorney's repeated requests, the respondent failed to return the down payment.

On or about December 18, 2015, the respondent submitted a written answer to Scharman's grievance complaint, together with a portion of her file. Among other things, the respondent advised that she was willing to release the down payment funds to the Grievance Committee, but she would not return the funds to Scharman.

During the investigation of the Scharman complaint, the Grievance Committee received bank records from Wells Fargo Bank, pursuant to subpoena, for the respondent's attorney IOLA account, entitled "DixonLawPC, NY IOLA Attorney Special Account," account no. ending in 9789 (hereinafter the IOLA account), for the period from January 1, 2014, through November 30, 2015. The Grievance Committee prepared a financial analysis report of the respondent's IOLA account based upon the records received from Wells Fargo Bank, which was forwarded to the respondent by letter dated January 18, 2017, in advance of a scheduled examination under oath.

On January 26, 2017, the respondent appeared at the Grievance Committee's office and was granted an adjournment to secure counsel. On the adjourned date, February 2, 2017, the respondent appeared, and again requested and received another adjournment to retain counsel. By letter dated March 6, 2017, the respondent, through counsel, advised the Grievance Committee that the respondent intended to invoke her Fifth Amendment privilege against self-incrimination at the examination under oath scheduled for March 8, 2017.

Annexed to the motion, inter alia, to immediately suspend the respondent are copies of the IOLA account records received from Wells Fargo Bank pursuant to subpoena, for the period from January 1, 2014, through November 30, 2015. The bank records confirm that the \$38,500 down payment check was deposited into the respondent's IOLA account on January 30, 2014. The records further reveal that the respondent made numerous online transfers from the IOLA account during this period to three other bank accounts: Dixon Law PC Small Business Checking, account

no. ending in 5740, Dixon K Way2Save Checking, account no. ending 2608, and Dixonlaw PC Business Checking, account no. ending in 0332. These transfers and other withdrawals depleted the balance in the IOLA account below \$38,500 on April 16, 2014. Thereafter, the balance in the IOLA account remained below \$38,500, and by November 2, 2015, the balance in the trust account was zero.

Based on the foregoing, the respondent is immediately suspended from the practice of law pursuant to 22 NYCRR 1240.9(a)(5), pending further order of this Court, the Grievance Committee shall serve a copy of this decision and order on motion upon the respondent, the respondent is directed to serve an answer to the verified petition on the Grievance Committee and the Special Referee, and file the original answer with this Court within 10 days after service of this decision and order on motion upon her, and the matter is referred to a Special Referee, to hear and report.

MASTRO, J.P., DILLON, LEVENTHAL, CHAMBERS and HALL, JJ., concur.

ENTER:

A handwritten signature in black ink that reads "Aprilanne Agostino". The signature is written in a cursive, flowing style.

Aprilanne Agostino
Clerk of the Court