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district court and remand the cause with directions to appoint counsel for Mata and grant him leave to amend.

CONCLUSION

For the foregoing reasons, we reverse, and remand with directions to appoint Mata counsel and grant him leave to amend his motion for postconviction relief.

REVERSED AND REMANDED WITH DIRECTIONS.

STATE OF NEBRASKA EX REL. COUNSEL FOR DISCIPLINE OF THE NEBRASKA SUPREME COURT, RELATOR, V. KIM D. ERWIN-LONCKE, RESPONDENT.

790 N.W.2d 721

Filed November 19, 2010. No. S-10-1071.

Original action. Judgment of disbarment.

HEAVICAN, C.J., WRIGHT, CONNOLLY, GERRARD, STEPHAN, MCCORMACK, and MILLER-LERMAN, JJ.

PER CURIAM.

INTRODUCTION

This case is before the court on the voluntary surrender of license filed by respondent, Kim D. Erwin-Loncke, on November 2, 2010. The court accepts respondent's surrender of her license and enters an order of disbarment.

STATEMENT OF FACTS

Respondent was admitted to the practice of law in the State of Nebraska on July 26, 2007, and has maintained an office in Omaha, Nebraska. On August 2, 2010, the Counsel for Discipline of the Nebraska Supreme Court received an overdraft notice with respect to the respondent's trust account. In addition, the record shows that on September 14, the Counsel for Discipline received a grievance against respondent from a health care provider claiming that respondent had failed to pay a bill on behalf of an individual for whom respondent was acting as a conservator. At the time respondent filed her voluntary

surrender on November 2, the Counsel for Discipline was investigating respondent for possible misuse of funds that were held in her client trust account.

On November 2, 2010, respondent filed with this court a voluntary surrender surrendering her license to practice law in the State of Nebraska. In this pleading, respondent does not challenge or contest the truth of the allegations made against her. In addition to surrendering her license, respondent consented to the entry of an order of disbarment and waived her right to notice, appearance, and hearing prior to the entry of the order of disbarment.

ANALYSIS

Neb. Ct. R. § 3-315 of the disciplinary rules provides in pertinent part:

> (A) Once a Grievance, a Complaint, or a Formal Charge has been filed, suggested, or indicated against a member, the member may voluntarily surrender his or her license.
>
> (1) The voluntary surrender of license shall state in writing that the member knowingly admits or knowingly does not challenge or contest the truth of the suggested or indicated Grievance, Complaint, or Formal Charge and waives all proceedings against him or her in connection therewith.

Respondent filed a pleading pursuant to § 3-315 of the disciplinary rules. In this pleading, respondent has voluntarily surrendered her license to practice law and knowingly does not challenge or contest the truth of the allegations made against her with respect to the trust account violations. Respondent has waived all proceedings against her. Respondent has consented to the entry of an order of disbarment.

CONCLUSION

Upon due consideration of the court file in this matter, the court finds that respondent has stated that she freely, knowingly, and voluntarily does not contest the allegations that she misused funds held in her client trust account. The court accepts respondent's surrender of her license to practice law, finds that respondent should be disbarred, and hereby orders

her disbarred from the practice of law in the State of Nebraska, effective immediately. Respondent shall forthwith comply with all terms of Neb. Ct. R. § 3-316 of the disciplinary rules, and upon failure to do so, she shall be subject to punishment for contempt of this court. Accordingly, respondent is directed to pay costs and expenses in accordance with Neb. Rev. Stat. §§ 7-114 and 7-115 (Reissue 2007) and Neb. Ct. R. §§ 3-310(P) and 3-323 of the disciplinary rules within 60 days after an order imposing costs and expenses, if any, is entered by the court.

JUDGMENT OF DISBARMENT.