



FILED
ADS

MAR 28 2006

STATE BAR COURT
 CLERK'S OFFICE
 LOS ANGELES

STATE BAR COURT OF CALIFORNIA
 HEARING DEPARTMENT - LOS ANGELES

PUBLIC MATTER

In the Matter of

B. JOE THOMSON,

Member No. 145816,

A Member of the State Bar.

Case No. 00-O-14803-RAH

**DECISION INCLUDING DISBARMENT
 RECOMMENDATION AND ORDER OF
 INVOLUNTARY INACTIVE
 ENROLLMENT**

I. INTRODUCTION

In this disciplinary matter, Eric H. Hsu appeared for the Office of the Chief Trial Counsel of the State Bar of California (State Bar). Respondent B. Joe Thomson did not appear in person or by counsel.

After considering the evidence and the law, the court recommends, among other things, that respondent be disbarred.

II. SIGNIFICANT PROCEDURAL HISTORY

The Notice of Disciplinary Charges (NDC) was filed on November 28, 2001, and was properly served on respondent on that same date at his then-official membership records address by certified mail, return receipt requested, as provided in Business and Professions Code section¹ 6002.1(c) (official address). (Rules Proc. of State Bar,² rule 60(b).) Service was deemed complete as of the time of mailing. (*Lydon v. State Bar* (1988) 45 Cal.3d 1181, 1186.) He was also served with the NDC at five alternate addresses by certified mail, return receipt requested.

On January 9, 2002, respondent was properly served at his then-official address and at an

¹Future references to section are to the Business and Professions Code.

²Future references to the Rules of Procedure are to this source.

alternate address with a notice advising him, among other things, that a status conference would be held on February 5, 2002. The copy sent to the official address was returned as undeliverable by the United States Postal Service (USPS) stamped: "Returned to sender. Delivery attempted. Not known" and bearing a sticker with a Conroe, Texas, forwarding address.

On February 1, 2002, respondent filed a responsive pleading to the NDC.

Respondent did not appear at the February 5, 2002, status conference. On the next day, he was properly served with a status conference order at his then-official address and an alternate address by first-class mail, postage prepaid. The order also advised him of dates scheduled for a status conference (March 13, 2002), pretrial conference and trial. The copy sent to the official address was returned as undeliverable by the USPS stamped: "Returned to sender. Delivery attempted. Not known" and bearing a sticker with a Conroe, Texas, forwarding address.

Respondent appeared at the March 13, 2002, status conference. On that same date, he was served with an order at an alternate address (Loop South address) by first-class mail, postage prepaid that memorialized the date of the next status conference, April 18, 2002.³

³Pleadings subsequent to the NDC are required to be served at the official address unless the respondent attorney has counsel of record or has expressly requested in the response that service be made upon him or her at a different address. (Rules of Procedure, rule 61(b).)

If, during the pendency of the proceeding, a party or counsel desires to be served at a different address, he or she must file and serve on all parties a written notice of change of address and a specific request that all future service be made at the new address. (Rules of Procedure, rule 61(c).)

On its own motion and pursuant to Evidence Code section 452, subdivision (h), the court judicially notices the State Bar's membership records which indicate that, between June 1995 and December 2005 when this matter was initially taken under submission, respondent had a series of four official addresses. The court judicially notices its records pursuant to Evidence Code section 452, subdivision (d), which indicate several alternate addresses for respondent. Respondent is not represented by counsel. His response to the NDC does not expressly request that he be served at an address other than the official address. The court's file does not contain a notice of change of address as required by Rules of Procedure, rule 61(c). Accordingly, service of documents after the NDC should have been, but was not, consistently made at respondent's official address. Whether or not service of documents was proper is noted throughout this procedural history.

The court notes that, regardless of the propriety of service of notice of court events, respondent participated at some of these scheduled matters. Nonetheless, the court will only consider as an aggravating factor, *infra*, respondent's nonparticipation at scheduled pretrial

The April 18 status conference was changed to April 17, 2002. Respondent was given notice of the change by a notice served on him at the Loop South address on March 26, 2002.

Respondent appeared at the status conference on April 17. A further status conference was scheduled for May 14, 2002. On April 22, 2002, respondent was served with a status conference order at two other alternate addresses by first-class mail, postage prepaid. The copy sent to the Loop South address was returned as undeliverable stamped: "Not deliverable as addressed. Unable to forward" and bore a sticker stating: "No forward order on file." The copy sent to the "General Delivery" address was not returned.

On May 20, 2002, respondent's motion to abate the proceedings was granted in consideration of a disciplinary action pending with the State Bar of Texas based upon the same allegations of misconduct as in the instant case. Periodic status conferences were to be held to determine the outcome of the Texas proceeding. The next status conference was scheduled for August 19, 2002. All other scheduled dates were vacated. This order was served on the Loop South address and was not returned as undeliverable.

On May 28, 2002, an order reassigning this case to another judge was served on respondent at the Loop South address and was not returned as undeliverable.

Respondent appeared at the August 19, 2002 status conference. On August 22, 2002, he was served with an order indicating that the next status conference would be held on January 13, 2003. The order was served on him at the Loop South address and another alternate address. Neither copy was returned as undeliverable.

On January 3, 2003, respondent was properly served with a notice changing the January 13 status conference to February 6, 2003. The order was served at respondent's official address and at three alternate addresses. The copy sent to the official address was returned as undeliverable and bore a stamp stating: "Returned to sender. Moved, left no address." The copy sent to the Loop South address was returned as undeliverable. The two copies sent to the

events for which he had proper notice and which were conducted telephonically so that he could participate from Texas.

“General Delivery” addresses were not returned as undeliverable.

Respondent appeared at the February 6, 2003, status conference. On that same date, he was served with an order indicating that the next status conference was scheduled for May 29, 2003. The copy sent to the Loop South address was returned as undeliverable. The copy sent to the “General Delivery” address was not.

Respondent did not appear at the May 29, 2003, status conference. On May 30, 2003, he was properly served with a status conference order at his official address⁴ by first-class mail, postage prepaid. The order also advised him that a status conference would be held on August 18, 2003. The correspondence was not returned as undeliverable.

Respondent did not appear at the August 18, 2003, status conference. On the next day, he was properly served with a status conference order at his official address by first-class mail, postage prepaid. It was not returned as undeliverable. It advised him that the next status conference would be held on December 1, 2003. The order also noted that, according to Texas counsel, respondent may be homeless or a drifter and could not be reached by telephone.

On August 27, 2003, respondent filed a “reply” to the status conference order stating that he waited for the court’s telephone call on August 18 at the Harris County (Texas) Law Library pay telephones and it did not come. Among other things, respondent noted that he was homeless but was not a drifter.

On December 1, 2003, respondent was served at an alternate address (P.O. Box address) with a notice continuing the December 1, 2003, status conference to February 2, 2004. It was not returned as undeliverable.

On December 20, 2003, respondent was served at the P.O. Box address with a notice reassigning the proceedings to the undersigned judge. It was not returned as undeliverable.

Respondent did not appear at the February 2, 2004, status conference. On the next day, he was properly served with a status conference order at his official address by first-class mail,

⁴The “General Delivery” address became respondent’s official address effective March 18, 2003.

postage prepaid. The order also advised him that the matter remained abated and that the next status conference was scheduled for May 6, 2004. This correspondence was not returned as undeliverable.

Respondent appeared at the May 6, 2004, status conference. On May 18, 2004, he was properly served with a status conference order at his official address by first-class mail, postage prepaid. The order also advised him that a status conference was scheduled for October 13, 2004. This correspondence was not returned as undeliverable.

Respondent appeared at the October 13, 2004, status conference. On October 18, 2004, he was properly served with a status conference order at his official address and at the P.O. Box address by first-class mail, postage prepaid. The copy sent to the official address was returned marked "unclaimed." The other copy was not returned as undeliverable. The order also advised him that the next status conference was scheduled for January 14, 2005.

Respondent appeared at the January 14, 2005, status conference. On January 18, 2005, he was properly served with a status conference order at his official address and at the P.O. Box address by first-class mail, postage prepaid. The copy sent to the official address was returned marked "unclaimed." The other copy was not returned as undeliverable. The order also advised him that the next status conference was scheduled for April 13, 2005.

Respondent did not appear at the April 13, 2005, status conference. On April 15, 2005, he was properly served with a status conference order at his official address and at the P.O. Box address by first-class mail, postage prepaid. The copy sent to the official address was returned marked "Undeliverable as addressed. Forwarding order expired." The other copy was not returned as undeliverable. The order also advised him that the next status conference was scheduled for May 16, 2005, and that, if he did not participate at that status conference, the abatement would be terminated and trial and related dates would be set.

Respondent did not appear at the May 16, 2005, status conference. On May 19, 2005, he was properly served with a status conference order at his official address by first-class mail, postage prepaid. It was returned marked "unclaimed." The order also advised him of the following dates, among other things: pretrial statement due on June 6, 2005; in-person pretrial

conference set for June 13, 2005; and trial scheduled for July 21, 2005.

On May 24, 2005, respondent was properly served with notice of a telephonic status conference to be held on June 13, 2005. The order was served at his official address and at the P.O. Box address by first-class mail, postage prepaid. The copy sent to the official address was returned marked "Undeliverable as addressed. Forwarding order expired." The other copy was not returned as undeliverable. The notice also advised him that, if he was having difficulties with incoming calls, he could call the State Bar Court's telephone number.

Respondent did not appear at the June 13, 2005, pretrial/status conference either in-person or by telephone. On June 23, 2005, he was properly served with a status conference order at his official address and at the P.O. Box address by first-class mail, postage prepaid. The copy sent to the official address was returned marked "Undeliverable as addressed. Forwarding order expired." The other copy was not returned as undeliverable. The order vacated the then-calendared dates and advised him of the following dates, among other things: settlement conference to be completed by September 15, 2005; telephonic status conference scheduled for September 19, 2005⁵; pretrial statement due on September 22, 2005; in-person pretrial conference set for October 6, 2005; and trial scheduled for October 17, 2005.

On July 13, 2005, respondent was properly served with notice of a settlement conference to be held on September 12, 2005. The order was served at his official address and at the P.O. Box address by first-class mail, postage prepaid. The copy sent to the official address was returned marked "Undeliverable as addressed. Forwarding order expired." The other copy was not returned as undeliverable.

Respondent did not appear at the September 12, 2005, settlement conference. The order memorializing this was served at his official address and at the P.O. Box address by first-class mail, postage prepaid. The copy sent to the official address was returned marked "Undeliverable as addressed. Forwarding order expired." The other copy was not returned as undeliverable.

⁵Respondent was notified to call the State Bar Court to participate in this status conference because the court was advised on June 13, 2005, that the law library telephone respondent had been using was for library personnel use only.

Respondent did not appear at the September 19, 2005, status conference. On September 21, 2005, a status conference order was served at his official address and at the P.O. Box address by first-class mail, postage prepaid. The copy sent to the official address was returned marked "Undeliverable as addressed. Forwarding order expired." The other copy was not returned as undeliverable. Among other things, the order reminded the parties about upcoming deadlines or appearances.

Respondent did not file a pretrial statement.

Respondent did not appear at the October 6, 2005, pretrial conference. Accordingly, he was barred pursuant to Rules of Procedure, rule 211(f), from presenting any documentary evidence or witnesses, other than himself, at trial. On October 17, 2005, a status conference order memorializing this was properly served at his official address and at the P.O. Box address by first-class mail, postage prepaid. The copy sent to the official address was returned marked "Undeliverable as addressed. Forwarding order expired." The other copy was not returned as undeliverable.

Respondent did not appear at trial. On October 17, 2005, the court entered respondent's default and enrolled him inactive effective three days after service of the order. The order was properly served on him at his official address and at the P.O. Box address on that same date by certified mail, return receipt requested. The copy sent to the official address was returned marked "Undeliverable as addressed. Forwarding order expired." The return receipt for the other copy was executed by "B. Joe Thomson" and showed the date of delivery as "10/27/05."

Respondent's petition for review was denied by order filed December 22, 2005. A copy of the order was properly served on respondent at his official address and at the P.O. Box address by first-class mail, postage prepaid. The copy sent to the official address was returned marked "unclaimed." The other copy was not returned as undeliverable.

The matter was submitted for decision without hearing on December 29, 2005, after the State Bar filed a closing brief.

The record was reopened by order filed on March 21, 2006, noting the admission into evidence of exhibits 12 and 13. The matter was submitted for decision at that time.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

The court's findings are based on the allegations contained in the NDC as they are deemed admitted and no further proof is required to establish the truth of those allegations. (Section 6088; Rules of Procedure, rule 200(d)(1)(A).) The findings are also based on any evidence admitted.

It is the prosecution's burden to establish culpability of the charges by clear and convincing evidence. (*In the Matter of Glasser* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 163, 171.)

A. Jurisdiction

Respondent was admitted to the practice of law in California on February 5, 1990, and has been a member of the State Bar at all times since.

B. Facts

In the mid-1980s, Moses Muzquiz, M.D., retained respondent to represent him regarding a personal bankruptcy in Texas. In the early 1990s, Muzquiz retained respondent to represent him regarding an appeal of his bankruptcy to the United States Court of Appeals for the Fifth Circuit, and paid him \$9,700 in attorney fees to do so.

In late 1998 or early 1999, a dispute arose between respondent and Muzquiz when respondent began to demand additional legal fees ranging from \$40,000 to \$120,000 for handling the bankruptcy appeal.

On December 8, 1999, respondent filed a lawsuit against Muzquiz accusing him of RICO violations as well as wire and mail fraud. (United States District Court, Southern District of Texas, case no. H-99-4256.) The lawsuit was dismissed with prejudice on May 30, 2000. On December 11, 2000, the Fifth Circuit also dismissed respondent's appeal of the dismissal.

On June 27, 2000, respondent wrote Muzquiz a letter threatening to disclose confidential or privileged information about Muzquiz if Muzquiz did not pay respondent the additional legal fees allegedly owed respondent for representing him in the bankruptcy appeal.

On October 3, 2000, respondent wrote Muzquiz a letter threatening to disclose confidential or privileged information about Muzquiz to the Federal Bureau of Investigation

(FBI) and to the United States Bankruptcy Court (bankruptcy court) if Muzquiz did not pay respondent the additional legal fees allegedly owed respondent for representing him in the bankruptcy appeal. He also threatened to accuse Muzquiz of criminal acts to the FBI and other law enforcement agencies if he did not pay the additional legal fees to respondent.⁶

On July 8, 1997, the California Supreme Court entered an order, no. S062310, suspending respondent from the practice of law because he did not pay his membership fees to the State Bar of California. It was properly served on respondent at his official address. The order became effective on July 21, 1997. Respondent knew or should have known that he was suspended as of that date. Respondent has not paid his membership fees since and, therefore, remains suspended from the practice of law.

After his suspension from the practice of law in California, respondent wrote several letters on letterhead that contained the words "attorney at law" followed by "Arkansas, Texas & California." He sent letters dated July 27, October 3 and 23 and November 2, 2000, on this letterhead to Muzquiz and to John McBain, an attorney with the Office of the Prosecuting Attorney for Jackson, Michigan. He also sent letters dated December 13 and 16, 2000, on this letterhead to the Office of the Chief Trial Counsel for the State Bar of California.

C. Conclusions of Law

1. Count One - Rule of Professional Conduct,⁷ rule 5-100(A)(Threatening Charges to Gain Advantage in Civil Suit)

Rule 5-100(A) prohibits an attorney from threatening to present criminal, administrative or disciplinary charges to obtain an advantage in a civil dispute.

There is clear and convincing evidence that respondent violated rule 5-100(A) by threatening to make accusations of criminal conduct against Muzquiz and threatening to disclose confidential or privileged information about Muzquiz to the FBI and to the bankruptcy court if

⁶The court notes that respondent made such disclosures. (See, for example, paragraphs six, seven and eight of his response to the NDC.)

⁷Future references to rule are to this source.

Muzquiz did not pay respondent fees allegedly owed to him.

2. Count Two - Section 6106 (Dishonesty or Moral Turpitude)

Section 6106 makes it a cause for disbarment or suspension to commit any act involving moral turpitude, dishonesty or corruption, whether the act is committed in the course of his relations as an attorney or otherwise, and whether the act is a felony or misdemeanor or not.

There is clear and convincing evidence that respondent violated section 6106 of the Business and Professions Code. He attempted to obtain additional legal fees from Muzquiz by threatening to make accusations of criminal conduct and threatening to disclose confidential or privileged information. The court finds that respondent's conduct rises to the level of moral turpitude because he endeavored to obtain additional, substantial fees by any means he saw fit, disregarding his duties to his client. This included making criminal accusations, whether or not justified, and engaging in federal litigation against his client, with whom he had a fiduciary relationship and to whom he owed a duty of confidentiality and the utmost loyalty. Accordingly, he committed an act of moral turpitude, dishonesty or corruption in wilful violation of section 6106.

3. Count Three - Section 6068, subdivision (a) (Noncompliance with Laws)

Section 6068, subdivision (a), requires an attorney to support the Constitution and laws of the United States and of this State.

Section 6125 requires an individual to be a member of the State Bar in order to practice law in California.

Section 6126, subdivision (a), makes it a misdemeanor for an individual to advertise or to hold him- or herself out as practicing or entitled to practice law or otherwise practicing law when he or she is not an active member of the State Bar of California.

By sending six letters on letterhead that identified him as a California attorney although he was suspended from the practice of law, respondent held himself out as entitled to practice law when he was not so entitled. In so doing, he violated sections 6125 and 6126, subdivision (a), and failed to support the laws of this State in wilful violation of section 6068, subdivision (a).

4. Count Four - Section 6106 (Dishonesty or Moral Turpitude)

There is clear and convincing evidence that respondent violated section 6106 of the Business and Professions Code. He sent six letters on letterhead that misrepresented his status as a California attorney although he knew or should have known that he was suspended from the practice of law. He committed acts of moral turpitude, dishonesty or corruption in wilful violation of section 6106. However, this conduct has already been found to violate sections 6125, 6126, subdivision (a), and 6068, subdivision (a). It is generally inappropriate to find redundant charged allegations. The appropriate level of discipline for an act of misconduct does not depend on how many rules of professional conduct or statutes proscribe the misconduct. "There is 'little, if any, purpose served by duplicative allegations of misconduct.'" (*In the Matter of Torres* (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138, 148.) Accordingly, this charge is dismissed with prejudice.

IV. LEVEL OF DISCIPLINE

A. Aggravating Circumstances

It is the prosecution's burden to establish aggravating circumstances by clear and convincing evidence. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct⁸, std. 1.2(b).)

Respondent has one prior instance of discipline. He was admitted to the State Bar of Texas in 1970. By judgment filed June 8, 1989, respondent was found culpable of failing to withdraw after being discharged in the 1980s in two client matters in violation of DR2-110(B(4) of the Texas Code of Professional Responsibility. The court found that the violations were technical and that respondent's clients suffered no harm as a result. The court also noted that respondent had had no prior instances of discipline since his admission to the Texas Bar in 1970. He was publicly reprimanded. (*The State Bar of Texas v. B. Joe Thomson*, District Court of Harris County, Texas, 190th Judicial District, case no. 85-68179.) Although this non-California disciplinary record may be considered as a prior instance of discipline in California, it is too

⁸Future references to standard or std. are to this source.

remote in time to have significant value as an indication of respondent's ability or willingness to conform his conduct to lawyers' ethical norms. (Rules of Procedure, rule 216(a); *In the Matter of Shinn* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 96 [private reproof 20 years earlier].)⁹

Respondent's multiple acts of misconduct are an aggravating factor. (Std. 1.2(b)(ii).)

In relevant part, standard 1.2(b)(iii) suggests consideration as an aggravating circumstance whether respondent's misconduct was surrounded or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct. In the instant case, respondent made disclosures of client confidences in violation of section 6068(e). (See, for example, paragraphs six, seven and eight of his response to the NDC.) The duty of an attorney to maintain client secrets is absolute and broad in scope. (*People v. Singh* (1932) 123 Cal.App. 365, 370.) It is not limited to information protected by the attorney-client privilege. (*Goldstein v. Lees* (1979) 46 Cal.App.3d 614, 621.) Only the client can release the attorney of the obligation to maintain such confidential matters. (*Commercial Standard Title Co., Inc. v. Superior Court of San Diego County* (4 Dist. 1979) 92 Cal.App.3d 934, 945.) There is no indication that Muzquiz released respondent from the duty to maintain his confidences.

Respondent's failure to participate in these proceedings prior to the entry of default is also an aggravating factor. (Std. 1.2(b)(vi).) He has demonstrated his contemptuous attitude toward disciplinary proceedings as well as his failure to comprehend the duty of an officer of the court to participate therein, a serious aggravating factor. ((Std. 1.2(b)(vi); Cf. *In the Matter of Stansbury* (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 104, 109.) Although he had proper notice, he did not appear at telephonic status conferences held on February 5, 2002, August 18, 2003, April 13,

⁹The court notes that respondent had approximately nine years of discipline-free conduct from the time of his admission to the practice of law in California in February 2005 until the commencement of the misconduct in late 1998 or early 1999. (*In the Matter of Respondent Z* (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 85, 89 [approximately nine years of discipline-free conduct].)

May 16, June 13 and September 19, 2005.¹⁰ He did not file the pretrial statement due on September 22, 2005.

B. Mitigating Circumstances

Respondent bears the burden of establishing mitigation by clear and convincing evidence. (Std. 1.2(e).) Respondent did not participate in these proceedings and did not present mitigating factors.

C. Discussion

The purpose of State Bar disciplinary proceedings is not to punish the attorney, but to protect the public, to preserve public confidence in the profession, and to maintain the highest possible professional standards for attorneys. (*Chadwick v. State Bar* (1989) 49 Cal.3d 103, 111; *Cooper v. State Bar* (1987) 43 Cal.3d 1016, 1025; std. 1.3.)

Standard 1.6 provides that the appropriate sanction for the misconduct found must be balanced with any mitigating or aggravating circumstances, with due regard for the purposes of imposing discipline. If two or more acts of professional misconduct are found in a single disciplinary proceeding, the sanction imposed shall be the most severe of the applicable sanctions. (Std. 1.6(a).) The level of discipline is progressive. (Std. 1.7(b).) Prior discipline is not a prerequisite for imposing any appropriate sanction, including disbarment. (Std. 1.7(c).) The standards, however, are guidelines from which the court may deviate in fashioning the most appropriate discipline considering all the proven facts and circumstances of a given matter. (*In re Young* (1989) 49 Cal.3d 257, 267 (fn. 11); *Howard v. State Bar* (1990) 51 Cal.3d 215.) They are "not mandatory 'sentences' imposed in a blind or mechanical manner." (*Gary v. State Bar* (1988) 44 Cal.3d 820, 828.)

Standards 2.3, 2.6(a) and (d) and 2.10 apply in this matter. The most severe sanction is found at standard 2.3 which recommends actual suspension or disbarment for culpability of an act of moral turpitude, fraud, intentional dishonesty or of concealment of a material fact from a

¹⁰As previously discussed in footnote 2, *supra*, respondent had proper notice of these court events, all of which were telephonic and at which he could have participated from Texas.

court, client or other person, depending on the extent to which the victim of the misconduct is harmed or misled and depending upon the magnitude of the act of misconduct and the degree to which it relates to the attorney's acts within the practice of law.

Respondent has been found culpable of violations of section 6106, sections 6068, subdivision (a)/6125-6126 and rule 5-100(A). Aggravating factors include multiple acts of misconduct and not participating in the proceedings prior to the entry of default. The court notes respondent's nearly nine years of discipline-free practice prior to the commencement of the misconduct.

The State Bar recommends disbarment. The court agrees.

The court found instructive *Marquette v. State Bar* (1988) 44 Cal.3d 253. In *Marquette*, the attorney was disbarred for engaging in perjury to obtain the execution of a lease, knowingly issuing checks against insufficient funds (which, ultimately, were paid), not paying a judgment against him, misappropriating a \$1,350 check and threatening his client's fiancée with criminal charges to gain a civil advantage. Respondent Marquette had prior discipline - a private and a public reproof. He did not demonstrate insight or remorse for his misconduct such that the Supreme Court had reason to believe that he would amend his ways if permitted to continue practicing law. Respondent Marquette participated in the proceedings. *Marquette* presents a greater variety of misconduct than the present case but the nature and extent of the misconduct in the present case, a default matter, is much more serious and, as in *Marquette*, there is no reason to believe that respondent would modify his behavior and comply with the ethical canons of our profession.

The court has grave concerns about respondent's ability or willingness to comply with his ethical responsibilities to the public, to the administration of justice and to the legal profession. No explanation has been offered that might dissuade this concern and the court can glean none. Having considered the evidence and the law, the court believes that disbarment is the only means available to protect the public from possible future misconduct from respondent. He engaged in grievous misconduct, essentially attempting to wring additional money from a client under threat of disclosure of confidential information and engaging in further litigation against the client to

that end. He also held himself out as being entitled to practice law in California when, in reality, he was not. The nature of these repeated acts of misconduct goes to the very heart of an attorney's duties: to respect the law; to hold inviolate client confidences and to respect the judicial system. His despicable conduct, which is directly related to the practice of law, is unexplained. The court has no basis to believe that it may not reoccur. In light of this fact and of the applicable standard, the court must recommend disbarment as the only means to protect the public, the courts and the legal profession from further misconduct.

V. DISCIPLINE RECOMMENDATION

IT IS HEREBY RECOMMENDED that respondent B. JOE THOMSON be DISBARRED from the practice of law in the State of California and that his name be stricken from the rolls of attorneys in this state.

It is also recommended that the Supreme Court order respondent to comply with rule 955, paragraph (a), of the California Rules of Court within 30 calendar days of the effective date of the Supreme Court order in the present proceeding, and to file the affidavit provided for in paragraph (c) within 40 days of the effective date of the order showing his compliance with said order.

VI. COSTS

It is recommended that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

VII. ORDER REGARDING INACTIVE ENROLLMENT

It is ordered that respondent be transferred to involuntary inactive enrollment status pursuant to section 6007, subdivision (c)(4). The inactive enrollment shall become effective three days from the date of service of this order and shall terminate upon the effective date of the

///

///

Supreme Court's order imposing discipline herein or as otherwise ordered by the Supreme Court pursuant to its plenary jurisdiction.

Dated: March 28, 2006



RICHARD A. HONN
Judge of the State Bar Court

CERTIFICATE OF SERVICE
[Rule 62(b), Rules Proc.; 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 March 28, 2006, I deposited a true copy of the following document(s):

**DECISION INCLUDING DISBARMENT RECOMMENDATION 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:

**B JOE THOMSON
GENERAL DELIVERY
HOUSTON, TX 77052**

**B JOE THOMSON
1177 WEST LOOP SOUTH
SUITE 560
HOUSTON, TX 77027**

**B JOE THOMSON
P O BOX 4041
HOUSTON, TX 77210**

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

Eric Hsu, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on **March 28, 2006**.


Milagro del R. Salmeron
Case Administrator
State Bar Court