

**STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT - SAN FRANCISCO**

In the Matter of)	Case No. 07-N-14718-LMA
)	
GEORGE BUMANGLAG,)	
)	
Member No. 56646,)	DECISION AND ORDER OF
)	INVOLUNTARY INACTIVE
)	ENROLLMENT
<u>A Member of the State Bar.</u>)	

I. Introduction

In this default disciplinary matter, respondent George Bumanglag (respondent) is found culpable, by clear and convincing evidence, of willfully failing to comply with rule 9.20 of the California Rules of Court, as ordered by the California Supreme Court on June 28, 2007, in S152150 (State Bar Court Case No. 05-O-04749), and thereby willfully failing to comply with a court order in violation of Business and Professions Code section 6103¹

The court recommends that respondent be disbarred from the practice of law.

II. Pertinent Procedural History

The State Bar of California, Office of the Chief Trial Counsel (State Bar) filed a Notice of Disciplinary Charges (NDC) against respondent on January 18, 2008. A copy of the NDC was served by certified mail, return receipt requested, on respondent at his official membership records address on January 18, 2008.²

¹ Unless otherwise indicated, all further references to section(s) refer to provisions of the Business and Professions Code.

² Although the Declaration of Service attached to the NDC indicates it was served upon respondent at 1327 N₂ St, rather than 1327 N St, the court finds this error de minimis. Respondent was aware of this proceeding, as he filed a response to the NDC.

Although respondent was sent proper notice, respondent failed to appear at a status conference on March 3, 2008.

On March 13, 2008, respondent filed a response to the NDC.³

Respondent was also sent proper notice of a March 24, 2008, status conference. However, respondent again failed to appear at the scheduled status conference.

Therefore, on March 27, 2008, the court ordered respondent to show cause as to why his response should not be stricken and his default entered in this matter. The court further ordered respondent's response to the Order to Show Cause (OSC) to be filed with the court, and served upon the State Bar, on or before April 14, 2008. The parties were also ordered to appear in person at an April 28, 2008, status conference. A copy of the order was properly served by first-class mail, postage fully prepaid, addressed to respondent at his official address.

However, respondent failed to file a response to the OSC, and failed to appear at the April 28, 2008, status conference either in person or by telephone. Thus, on April 28, 2008, the court filed a Notice of Entry of Default; Order Enrolling Inactive and Further Orders ordering respondent's response stricken and his default entered. The court also ordered respondent involuntarily enrolled as an inactive member of the State Bar pursuant to section 6007, subdivision (e), effective seven days after service of the order. The State Bar was also advised that no hearing would be held unless one was requested by the State Bar, and the State Bar was directed to file any further declarations, exhibits, or legal argument regarding the level of discipline no later than May 12, 2008. A copy of the Notice of Entry of Default; Order Enrolling Inactive and Further Orders was properly mailed by certified mail, return receipt requested, to respondent's official membership records address. The mailing was returned to the State Bar Court.

On May 12, 2008, the State Bar filed a brief on the issues of culpability and discipline

³Although respondent's response was untimely, the court accepted respondent's late response. In doing so, the court considered the State Bar's motion for the entry of respondent's default, which was also filed on March 13, 2008, moot. The Deputy Trial Counsel assigned to this matter has not received any communication from respondent since March 12, 2008.

and requested waiver of the hearing in this matter.⁴ The record in this matter was then closed, and this matter was submitted for decision on May 12, 2008.

III. Findings of Fact and Conclusions of Law

All factual allegations of the NDC are deemed admitted upon entry of respondent's default unless otherwise ordered by the court based on contrary evidence. (Rules Proc. of State Bar, rule 200(d)(1)(A).)

A. Jurisdiction

Respondent was admitted to the practice of law in the State of California on December 19, 1973, was a member at all times pertinent to these charges, and is currently a member of the State Bar of California.

B. Violation of California Rules of Court, Rule 9.20

On June 28, 2007, the Supreme Court of California filed an order in case number S152150 (State Bar Court Case No. 05-O-04749).

The June 28, 2007, order required respondent to comply with rule 9.20 of the 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 order.

Notice of the order was duly and properly served upon respondent in the manner prescribed by California Rule of Court 8.532 at respondent's address as maintained by the State Bar in accordance with section 6002.1.

The June 28, 2007 order became effective on July 28, 2007, and at all times thereafter remained in full force and effect.

The deadline for respondent to comply with rule 9.20, subdivision (c) expired on September 6, 2007. Respondent failed to comply with rule 9.20, subdivision (c) prior to the September 6, 2007, deadline, and as of January 14, 2008,⁵ respondent had not complied with rule

⁴Pursuant to Evidence Code section 452, subdivision (d), the court takes judicial notice of respondent's prior records of discipline, and pursuant to Evidence Code section 452, subdivision (h), the court takes judicial notice of respondent's official membership address history.

⁵Although the NDC is dated January 14, 2007, this appears to be a typographical error.

9.20, subdivision (c).⁶

Therefore, the State Bar has established by clear and convincing evidence that respondent willfully failed to comply with rule 9.20, subdivision (c) as ordered by the Supreme Court on June 28, 2007.⁷

C. Violation of Business and Professions Code Section 6103

Respondent's willful failure to comply with rule 9.20, subdivision (c), constitutes a violation of section 6103, which requires attorneys to obey court orders and provides that the willful disobedience or violation of such orders constitutes cause for disbarment or suspension.

IV. Mitigating and Aggravating Circumstances

A. Mitigation

No mitigating evidence was offered or received, and none can be gleaned from the record. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(e).)⁸

B. Aggravation

Respondent's four prior records of discipline is an aggravating circumstance. (Std. 1.2(b)(i).)

1. On February 14, 1991, the Supreme Court issued an order in S018174 (State Bar Court Case No. 89-O-12490) suspending respondent from the practice of law for six months, staying execution of the suspension, and placing respondent on probation for one year on conditions including that he be actually suspended for 30 days. Discipline was imposed for respondent's violation of former rules 6-101(A)(2) (two counts), 6-101(2) (one count), and 2-111(A)(2) (two counts) of

⁶Pursuant to Evidence Code section 452, subdivision (d), the court takes judicial notice of its court records.

⁷Rule 9.20, subdivision (d) provides that a suspended attorney's willful failure to comply with rule 9.20 constitutes a cause for disbarment or suspension and for revocation of any pending probation.

⁸All further references to standard(s) are to this source.

the Rules of Professional Conduct (RPC) and sections 6068, subdivisions (a) (two counts) and (m) (two counts), 6103 (two counts) and 6106. In mitigation, respondent had no prior record of discipline. In aggravation, respondent's misconduct resulted in significant harm to one client.

2. On July 28, 1993, the Supreme Court issued an order in S032910 (State Bar Court Case No. 90-O-15039) suspending respondent from the practice of law for two years, staying execution of the suspension, and placing respondent on probation for two years subject to conditions of probation, including five months' actual suspension. Discipline was imposed for respondent's violation of section 6068, subdivisions (m) (three counts) and (i) (one count), RPC 3-110(A) (two counts), former RPC 6-101(A)(2) (one count), RPC 3-700(A)(2) (two counts), former RPC 2-111(A)(2) (two counts), RPC 3-700(D)(2) (two counts), and RPC 3-700(D)(1) (one count). In mitigation, the parties stipulated to five additional circumstances bearing on the agreed disposition. In aggravation, respondent had a prior record of discipline.
3. On March 22, 1995, the Supreme Court issued an order in S044340 (State Bar Court Case No. 93-N-19297; 94-O-12506 (Cons.)) suspending respondent from the practice of law for six months, staying execution of the suspension, and placing respondent on probation for one year consecutive to the period of probation in S032910. Discipline was imposed for respondent's violation of rule 955 of the California Rules of Court⁹ and section 6125. In mitigation, respondent was cooperative with the State Bar throughout the proceedings. In aggravation, respondent had two prior records of discipline.
4. On June 28, 2007, the Supreme Court issued an order in S152150 (State Bar Court Case No. 05-O-04749) suspending respondent from the practice of law for

⁹Rule 955 of the California Rules of Court was renumbered 9.20 effective January 1, 2007.

one year, staying execution of the suspension, and placing respondent on probation for two years, subject to conditions of probation, including six months' actual suspension. Discipline was imposed for respondent's violation of former RPC 6-101(2). In mitigation, the parties stipulated to the following: (1) no client harm; (2) respondent cooperated with the State Bar and the State Bar Court; (3) remorse/recognition of wrongdoing; (4) delay of the disciplinary proceedings which was not attributable to respondent and which prejudiced him; (5) respondent had a good faith belief that his representation of his client was adequate; and (6) respondent has good character. In aggravation, respondent had a record of three prior impositions of discipline. However, the parties stipulated that "...respondent's prior incidents of discipline were not true "priors" because the misconduct charged in this case occurred prior to the misconduct found in all but one count of one of the three previous impositions of discipline." (Stipulation Re Facts, Conclusions of Law and Disposition filed February 22, 2007, in Case No. 05-O-04749.)

V. Discussion

Respondent's willful failure to comply with rule 9.20, paragraph (c), is extremely serious misconduct for which disbarment is generally considered the appropriate sanction. (*Bercovich v. State Bar* (1990) 50 Cal.3d 116, 131.) Such failure undermines its prophylactic function in ensuring that all concerned parties learn about an attorney's suspension from the practice of law. (*Lydon v. State Bar* (1988) 45 Cal.3d 1181, 1187.)

Furthermore, standard 1.7(b) provides that if an attorney is found culpable of misconduct in any proceeding and the member has a record of two prior impositions of discipline, the degree of discipline to be imposed in the current proceeding must be disbarment, unless the most compelling mitigating circumstances clearly predominate. In this matter, respondent has a record of four prior impositions of discipline, and no mitigating circumstances were found.

Respondent has demonstrated an unwillingness to comply with the professional

obligations and rules of court imposed on California attorneys although he has been given opportunities to do so. The court notes that respondent was previously disciplined in 1995 for violating rule 955 (now renumbered 9.20) by filing an incomplete compliance affidavit as required by subdivision (c) of rule 955. As a result of his prior disciplinary matter, respondent should have been well aware of the requirements of rule 9.20. That respondent has again failed to comply with rule 9.20 as ordered by the Supreme Court clearly suggests to this court that respondent's disbarment is necessary to protect the public, the courts and the legal community, to maintain high professional standards and to preserve public confidence in the legal profession. It would undermine the integrity of the disciplinary system and damage public confidence in the legal profession if respondent were not disbarred for his willful disobedience of the order of the California Supreme Court.

VI. Recommended Discipline

The court recommends that respondent George Bumanglag be disbarred from the practice of law in the State of California and that his name be stricken from the roll of attorneys in this state.

It is further recommended that respondent be ordered to comply with rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule, within thirty (30) and forty (40) days, respectively, after the effective date of the Supreme Court order herein.

VII. Costs

The court recommends 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 section 6140.7 and as a money judgment.

VIII. Order of Involuntary Inactive Enrollment

It is ordered that respondent be transferred to involuntary inactive enrollment status under section 6007, subdivision (c)(4), and rule 220(c) of the Rules of Procedure of the State Bar of

California. The inactive enrollment will become effective three calendar days after this order is served by mail.

Dated: August ____, 2008

LUCY ARMENDARIZ
Judge of the State Bar Court