

STATE BAR COURT OF CALIFORNIA  
HEARING DEPARTMENT – LOS ANGELES

In the Matter of ) Case Nos.: **09-O-11879-PEM**  
) (10-O-05116)  
**EDWARD SUNKU LEE,** )  
) **DECISION AND ORDER OF**  
**Member No. 213775,** ) **INVOLUNTARY INACTIVE**  
) **ENROLLMENT**  
A Member of the State Bar. )

In this two-client matter, respondent Edward Sunku Lee (respondent) was charged with (1) failing to perform legal services with competence (two counts); (2) failing to inform clients of significant developments; (3) failing to release a client’s file; and (4) failing to cooperate in a disciplinary investigation (two counts). He failed to appear at the trial of this case and his default was entered. The Office of the Chief Trial Counsel of the State Bar of California (State Bar) filed a petition for disbarment under rule 5.85 of the Rules of Procedure of the State Bar.<sup>1</sup>

Rule 5.85 provides the procedure to follow when an attorney fails to appear at trial after receiving adequate notice and opportunity. The rule provides that, if an attorney’s default is entered for failing to appear at trial and the attorney fails to have the default set aside or vacated within 90 days, the State Bar will file a petition requesting the court to recommend the attorney’s disbarment.<sup>2</sup>

---

<sup>1</sup> Unless otherwise indicated, all references to rules are to this source.

<sup>2</sup> 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(E)(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**

Respondent was admitted to practice law in this state on June 5, 2001, and has been a member since then.

#### **Procedural Requirements Have Been Satisfied**

On April 7, 2011, the State Bar filed and properly served the notice of disciplinary charges (NDC) on respondent at his membership records address by certified mail, return receipt requested. The NDC notified respondent that his failure to appear at the State Bar Court trial would result in a disbarment recommendation. (Rule 5.41.) On June 20, 2011, respondent filed his response to the NDC.

By order filed July 19, 2011, the trial was set to start on August 16, 2011. The order setting the trial date was served on respondent at the address provided in the response to the NDC. (Rule 5.81(A).)

On August 16, 2011, the State Bar appeared for trial but respondent did not. Finding that all of the requirements of rule 5.81(A) were satisfied, the court entered respondent's default by order filed August 17, 2011. The order also placed respondent on involuntary inactive status under Business and Professions Code section 6007, subdivision (e).

On December 21, 2011, the State Bar filed the petition for disbarment. The case was submitted for decision on January 18, 2012; however, on April 3, 2012, the court vacated its August 17, 2011 order entering respondent's default and enrolling him inactive because the order was not served on respondent by certified mail, return receipt requested.

On April 4, 2012, the court issued and properly served an order entering respondent's default pursuant to his failure to appear at trial. The order notified respondent that if he did not timely move to set aside or vacate his default, the court would recommend his disbarment. The order also placed respondent on involuntary inactive status under Business and Professions Code section 6007, subdivision (e), and he has remained inactive since that time.

Respondent did not seek to have his default set aside or vacated. (Rule 5.83(C)(2) [attorney has 90 days after order entering default is served to file motion to set aside default].) On July 31, 2012, the State Bar filed the petition for disbarment. As required by rule 5.85(A), the State Bar reported in the petition that: (1) it has had no contact with respondent since the default was entered; (2) respondent has two other disciplinary matters pending in investigation; (3) respondent has no record of prior discipline; and (4) the Client Security Fund has not paid out any claims as a result of respondent's misconduct. Respondent has not responded to the petition for disbarment or moved to set aside or vacate the default. The case was submitted for decision on September 13, 2012.

### **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(E)(1)(d).)

#### **Case Number 09-O-11879 (The Stamps Matter)**

Count One – respondent willfully violated rule 3-110(A) of the Rules of Professional Conduct (failing to perform legal services with competence) by failing to respond to discovery in three matters; failing to appear for court hearings in two matters; failing to respond to or oppose

motions in two matters; and failing to file a response to the complaint and cross-complaint in a matter.

Count Two - respondent willfully violated Business and Professions Code section 6068, subdivision (m) (failure to inform client of significant developments) by failing to promptly inform his clients of significant developments including discovery demands; court orders; motions; hearing dates; court rulings; and sanctions awards.

Count Three – respondent willfully violated rule 3-700(D)(1) of the Rules of Professional Conduct (failure to release file) by failing to promptly release client files to the clients upon request at termination of employment.

Count Four - respondent willfully violated Business and Professions Code section 6068, subdivision (i) (failure to cooperate in a State Bar investigation) by failing to respond to the State Bar investigator's May 12 and June 8, 2009 letters.

**Case Number 10-O-05116 (The Kang Matter)**

Count Five – respondent willfully violated rule 3-110(A) of the Rules of Professional Conduct by failing to adequately plead a viable cause of action on behalf of his client, failing to file a written opposition to the demurrers and motions to strike, and failing to appear at a court hearing.

Count Six - respondent willfully violated Business and Professions Code section 6068, subdivision (i) by failing to respond to the State Bar investigator's letters.

**Disbarment is Mandated under the Rules of Procedure**

Based on the above, the court concludes that the requirements of rule 5.85(E) have been satisfied, and respondent's disbarment must be recommended. In particular:

- (1) The NDC was properly served on respondent under rule 5.25;

(2) respondent had actual notice of the proceedings prior to the entry of his default, as he filed a response to the NDC and was properly served with notice of the trial date;

(3) the default was properly entered under rule 5.81; and

(4) the factual allegations in the NDC deemed admitted by the entry of 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 appear for the trial in this disciplinary proceeding. As set forth in the Rules of Procedure of the State Bar, the court must recommend his disbarment.

## **RECOMMENDATION**

### **Disbarment**

The court recommends that respondent Edward Sunku Lee be disbarred from the practice of law in the State of California and that his name be stricken from the roll of attorneys.

### **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 Edward Sunku Lee, State Bar number 213775, 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: November \_\_\_\_\_, 2012

---

Pat McElroy  
Judge of the State Bar Court