

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – SAN FRANCISCO

In the Matter of)	Case No.: 10-N-00085-PEM
)	
ROBERT HARRIS JACKSON)	DECISION AND ORDER OF
)	INVOLUNTARY INACTIVE
Member No. 213433)	ENROLLMENT
)	
<u>A Member of the State Bar.</u>)	

I. Introduction

In this default disciplinary matter, respondent Robert Harris Jackson (“respondent”) is found culpable, by clear and convincing evidence, of failing to comply with California Rules of Court, rule 9.20, as ordered by the California Supreme Court on September 29, 2009, in case number S175008 (State Bar Court Case Nos. 07-O-12606 (07-O-12879); 08-H-10444; 08-O-13520 (08-O-13822) (Cons.)).

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

II. Pertinent Procedural History

This proceeding was initiated by the Office of the Chief Trial Counsel of the State Bar of California (“State Bar”). The Notice of Disciplinary Charges (“NDC”) was filed and properly served via certified mail, return receipt requested, on respondent at his official membership records address on April 2, 2010.

The State Bar's subsequent efforts to contact or locate respondent, both by telephone and through internet-based directory assistance websites, were unsuccessful. On motion of the State Bar, respondent's default was entered on September 15, 2010. A copy of the order of entry of default was properly mailed to respondent's official membership records address. Said mailing was subsequently returned to the State Bar Court as undeliverable. Respondent was enrolled as an inactive member under Business and Professions Code section 6007, subdivision (e)¹ on September 18, 2010.

Respondent never filed a response to the NDC (Rules Proc. of State Bar, rule 103) and did not participate in the disciplinary proceedings. The court took this matter under submission on October 26, 2010, following the filing of the State Bar's brief on culpability and discipline² which requested waiver of a hearing in this matter.

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 California on June 3, 2001, 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 September 29, 2009, the California Supreme Court filed a disciplinary order in Supreme Court Case Number S175008 (State Bar Court Case Nos. 07-O-12606 (07-O-12879);

¹ All references to section(s) are to the Business and Professions Code, unless otherwise indicated.

² Said motion was accompanied by a motion for late filing which is hereby granted.

08-H-10444; 08-O-13520 (08-O-13822) (Cons.)). This order suspended respondent from the practice of law and required him to comply with California Rule of Court 9.20 by performing the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of this order.

This order became effective 30 days after it was filed, and at all times subsequent has remained in full force and effect.

Notice of the rule 9.20 order was properly served upon respondent in the manner prescribed by California Rule of Court 9.18(b) at the address respondent maintained with the State Bar in accordance with Business and Professions Code section 6002.1, subdivision (a).

The deadlines for complying with rule 9.20(a) and rule 9.20(c) expired on or about November 28, 2009, and December 8, 2009, respectively.

Respondent knew about his duty to comply with rule 9.20 because: (1) he had signed a stipulation in which he expressly agreed to comply, and (2) he received letters from the Office of Probation, dated December 11, 2009 and January 7, 2010, reminding him of his duty to comply.

Respondent did not file his compliance declaration until January 29, 2010.

“Willfulness” in the context of rule 9.20 does not require actual knowledge of the provision which is violated. The Supreme Court has disbarred attorneys whose failure to keep their official addresses current prevented them from learning that they had been ordered to comply with rule 9.20. (*Powers v. State Bar* (1988) 44 Cal.3d 337, 341 [referring to the rule by its previous number designation, rule 955].)

The State Bar has established by clear and convincing evidence that respondent willfully failed to timely comply with rule 9.20, subdivision (c), as ordered by the Supreme Court.

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 of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct, standard 1.2(e).)³

B. Aggravation

Respondent's prior record of discipline is an aggravating circumstance. (Std. 1.2(b)(i).) Respondent has two prior impositions of discipline.

Effective August 14, 2007, respondent was publicly reprovved with conditions in State Bar Court Case No. 07-O-10018. In this single-client matter, respondent failed to respond to his client's reasonable status inquiries, return the client's file, render appropriate accounts, and promptly refund unearned fees. In mitigation, respondent: (1) displayed spontaneous candor and cooperation, (2) was suffering from extreme physical difficulties at the time of the misconduct, (3) demonstrated remorse and recognition of the wrongdoing, (4) was suffering extreme difficulties in his personal life, and (5) had no prior record of discipline. No aggravating circumstances were involved.

On September 29, 2009, the California Supreme Court, in the underlying matter, issued an order (S175008) suspending respondent from the practice of law for two years, stayed, with a three-year period of probation including a six-month actual suspension and/until respondent

³ All further references to standard(s) are to this source.

provides proof of payment of restitution. In this proceeding, respondent stipulated to 19 counts of misconduct in 5 different matters, including failing to perform with competence, failing to obey a court order, failing to inform a client of significant developments, failing to respond to client inquires, improperly withdrawing from employment, failing to refund unearned fees, failing to return clients' files, failing to cooperate in a State Bar investigation, failing to deposit client funds into a trust account, and violating the conditions of his public reproof. In aggravation, respondent committed multiple acts of wrongdoing, caused significant harm, and had a prior record of discipline. In mitigation, respondent made partial restitution following the initiation of the State Bar proceedings.

V. Discussion

Respondent's willful failure to comply with rule 9.20, subdivision (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.)

Respondent has demonstrated an inability or unwillingness to comply with the professional obligations and rules of court imposed on California attorneys. Due to his failure to participate in the present proceeding, the court has little reason to believe that respondent will comply with future professional obligations. Therefore, his 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 an order of the California Supreme Court.

VI. Recommended Discipline

The court recommends that respondent Robert Harris Jackson be disbarred from the practice of law in California and that his name be stricken from the roll of attorneys in this state.

It is also recommended that the Supreme Court order respondent to comply with rule 9.20 of the California Rules of Court and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of its order imposing discipline in this matter.⁴

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 filed.

Dated: December ____, 2010

PAT McELROY
Judge of the State Bar Court

⁴ Respondent is required to file a rule 9.20(c) affidavit even if he has no clients to notify. (*Powers v. State Bar, supra*, 44 Cal.3d at p. 341.)