

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – LOS ANGELES

In the Matter of)	Case No. 10-N-11228
)	
JOHN RANDALL FAITH,)	DECISION AND ORDER OF
)	INVOLUNTARY INACTIVE
Member No. 50474,)	ENROLLMENT
)	
A Member of the State Bar.)	
_____)	

Respondent John Randall Faith was charged with failing to comply with California Rule of Court, rule 9.20(c). He failed to participate either in person or through counsel and his default was entered. The Office of the Chief Trial Counsel (State Bar) filed a petition for disbarment under the Rules of Procedure of the State Bar, rule 5.85.¹

Rule 5.85 provides the procedure to follow when an attorney fails to participate in a disciplinary proceeding after receiving adequate notice and opportunity. The rule provides that, if an attorney's default is entered for failing to respond to the notice of disciplinary charges (NDC) and the attorney fails to have the default set aside or vacated within 180 days, the State Bar will file a petition requesting the court to recommend the attorney's disbarment.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.

¹ Unless otherwise indicated, all references to rules are to this source.

² 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).)

FINDINGS AND CONCLUSIONS

Respondent was admitted to the practice of law in California on January 5, 1972, and has been a member of the State Bar since then.

Procedural Requirements Have Been Satisfied

On February 15, 2011, the State Bar filed and properly served a First Amended NDC on respondent at his membership records address by certified mail, return receipt requested. The NDC notified respondent that his failure to participate in the proceeding would result in a disbarment recommendation. (Rule 5.41.) The certified mail receipt was signed by respondent.

The State Bar also telephoned respondent at the number listed in respondent's membership records and left a message for him. In addition, the State Bar sent an email to respondent at the email address listed in his membership records.³ Respondent did not respond to these attempted communications. The State Bar also searched other sources in an unsuccessful effort to obtain alternative contact information for respondent.

Respondent failed to file a response to the NDC. On March 17, 2011, the State Bar filed a motion for entry of his default. The motion complied with all the requirements for a default, including a supporting declaration of reasonable diligence by the State Bar deputy trial counsel declaring the additional steps taken to provide notice to respondent. (Rule 5.80.) The motion also notified respondent again that his failure to participate in the proceeding would result in a disbarment recommendation. Respondent did not file a response to the motion and his default was entered on April 5, 2011. He was also placed on involuntary inactive status under Business and Professions Code section 6007, subdivision (e), and has remained inactive since that time.

³ Effective February 1, 2010, all attorneys are required to maintain a current email address to facilitate communications with the State Bar. (Cal. Rules of Court, rule 9.7(a)(2).)

Respondent did not seek to have his default set aside or vacated. (Rule 5.83(C)(1) [attorney has 180 days after order entering default is served to file motion to set aside default].) On November 30, 2011, 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 four matters pending against him in investigations and another case which has been filed in the State Bar Court;⁴ (3) respondent has a 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 or moved to set aside or vacate the default.

Respondent has been disciplined on one prior occasion. In September 2010 he was suspended for a minimum of six months and ordered to comply with California Rules of Court, rule 9.20. The misconduct included acts of moral turpitude for issuing two non-sufficient funds checks, improper withdrawal from employment, failure to release a client file, failure to respond to client inquiries and failure to cooperate with the State Bar. Respondent did not file a response to NDC in this prior case and his default was entered.

The Admitted Factual Allegations Warrant the Imposition of Discipline

Upon entry of a 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.) In this case, the admitted acts show that respondent is culpable as charged of violating California Rule of Court, rule 9.20(c) (duties of disbarred, resigned or suspended attorneys) by failing to file proof of compliance with the rule as ordered by the Supreme Court in the September 2010 discipline case.

⁴ Respondent's default was entered in this other pending State Bar Court case (nos. 10-O-02512 and 10-O-05986) for failing to file a response to the NDC. The State Bar Court's decision has not been filed as of yet.

RECOMMENDATION

Disbarment

Having found that all of the requirements of Rule 5.85(E) are satisfied, the court recommends that respondent John Randall Faith be disbarred from the practice of law in the State of California and that his name be stricken from the roll of attorneys.

Rule 9.20

The court also recommends that respondent be ordered to comply with the requirements of rule 9.20 of the California Rules of Court, 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 section 6086.10, such costs being enforceable both as provided in section 6140.7 and as a money judgment.

ORDER OF INVOLUNTARY INACTIVE ENROLLMENT

In accordance with section 6007, subdivision (c)(4), the court orders that John Randall Faith, State Bar Number 50474, 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. (Rules Proc. of State Bar, rule 5.111(D).)

Dated: January 11, 2012

RICHARD A. PLATEL
Judge of the State Bar Court