

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – LOS ANGELES

In the Matter of	)	Case Nos.: 10-O-07678-RAH
	)	(10-O-09190; 10-O-09193;
RAMON MENDEZ GONZALEZ,	)	10-O-10961; 10-O-11083;
	)	11-O-11583; 11-O-12552;
Member No. 220891,	)	11-O-13235; 11-O-13285;
	)	11-O-13445; 11-O-13807;
A Member of the State Bar.	)	11-O-14425)
)	
	)	DECISION AND ORDER OF
	)	INVOLUNTARY INACTIVE
	)	ENROLLMENT
)	

Respondent Ramon Mendez Gonzalez (respondent) was charged with 48 counts of misconduct stemming from 12 different matters. He failed to file a response to the first amended notice of disciplinary charges (NDC), 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.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 NDC, and the attorney fails to have

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

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.

FINDINGS AND CONCLUSIONS

Respondent was admitted to practice law in this state on December 2, 2002, and has been a member since then.

Procedural Requirements Have Been Satisfied

On October 21, 2011, the State Bar filed and properly served the First Amended Notice of Disciplinary Charges (NDC) on respondent by certified mail, return receipt requested, at his membership records address. The NDC notified respondent that his failure to participate in the proceeding would result in a disbarment recommendation. (Rule 5.41.) The State Bar subsequently received a signed certified mail return receipt, bearing an illegible signature.

Respondent failed to timely file a response to the NDC. On November 23, 2011, Deputy Trial Counsel Hugh Radigan (DTC Radigan) called and emailed respondent regarding his failure to timely file a response. Respondent communicated with DTC Radigan by email³ and telephone. Respondent requested by telephone that DTC Radigan agree to extend the time for respondent to file his response. DTC Radigan advised respondent that he could not agree to the extension.

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).)

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).) DTC Radigan's email was sent to respondent at his official membership records email address.

As respondent had failed to file a response to the NDC, on December 5, 2011, the State Bar filed and properly served a motion for entry of respondent's default.⁴ The motion complied with all the requirements for a default, including a supporting declaration of reasonable diligence by DTC Radigan, declaring the additional steps taken to provide notice to respondent. (Rule 5.80.) The motion also notified respondent that if he did not timely move to set aside his default, the court would recommend his disbarment. Respondent did not file a response to the motion, and his default was entered on December 22, 2011. The order entering the default was served on respondent at his membership records address by certified mail, return receipt requested. The court also ordered respondent's involuntary inactive enrollment as a member of the State Bar under Business and Professions Code section 6007, subdivision (e), effective three days after service of the order, and he has remained inactively enrolled since that time.

Respondent did not seek to have his default set aside or vacated. (Rule 5.83(C)(1) [attorney has 180 days to file motion to set aside default].) On June 27, 2012, the State Bar filed the petition for disbarment.⁵ As required by rule 5.85(A), the State Bar reported in the petition that: (1) respondent has not contacted the State Bar since the default was entered; (2) there are two non-public disciplinary matters pending; (3) respondent has one prior record of discipline;⁶ and (4) the Client Security Fund has made payments in the total amount of \$33,193.71 as a result of respondent's conduct. Respondent did not respond to the petition for disbarment or move to set aside or vacate the default. The case was submitted for decision on July 24, 2012.

⁴ The motion was served via certified mail, return receipt requested, at respondent's membership records address.

⁵ The petition was served on respondent by certified mail, return receipt requested, at his membership records address.

⁶ The court takes judicial notice of the pertinent State Bar Court records regarding this prior discipline, admits them into evidence, and directs the Clerk to include copies in the record of this case.

Respondent has been disciplined on one prior occasion. Pursuant to a Supreme Court order filed on August 10, 2011, respondent was suspended from the practice of law for one year, the execution of which was stayed, and he was placed on probation for one year with conditions including a six-month period of suspension. This matter centered on respondent's employment as in-house counsel for a loan modification company owned by a non-attorney. Respondent stipulated to 34 counts of misconduct including, but not limited to, failing to perform legal services with competence, improper client solicitation, failing to refund unearned fees, collecting an illegal fee, failing to account, and sharing legal fees with a non-attorney.

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, except as otherwise noted, and, therefore, violated a statute, rule, or court order that would warrant the imposition of discipline. (Rule 5.85(E)(1)(d).)

Case Number 10-O-07678 (The Jose Matter)

Count One – respondent willfully violated rule 3-700(A)(2) of the Rules of Professional Conduct (improper withdrawal from employment) by closing his law office without notice and abandoning his client.

Count Two – respondent willfully violated rule 3-700(D)(2) of the Rules of Professional Conduct (failing to refund unearned fees) by failing to refund \$5,000 in unearned fees to his client.

Count Three – respondent willfully violated section 6068, subdivision (i) of the Business and Professions Code⁷ (failure to cooperate in a State Bar investigation) by failing to respond to the State Bar investigator’s February 25, 2011 letter.

Count Four – respondent willfully violated section 6068, subdivision (j) (failure to update membership address) by closing his office and not updating his State Bar official membership records address.

Case Number 10-O-09190 (The Hernandez Matter)

Count Five – respondent willfully violated rule 3-110(A) (failure to perform with competence) by failing to perform various services for which he was retained, including failing to negotiate or file suit on his client’s behalf.

Count Six – respondent willfully violated section 6068, subdivision (m) (failure to communicate) by failing to respond to his client’s repeated emails and telephone calls requesting a status update.

Count Seven – respondent willfully violated rule 3-700(D)(2) by failing to refund \$5,000 in unearned fees to his client.

Count Eight – respondent willfully violated section 6068, subdivision (i) by failing to respond to the State Bar investigator’s February 25, 2011 letter.

Case Number 10-O-09193 (The Uribe Matter)

Count Nine – respondent willfully violated rule 3-110(A) by failing to perform various services for which he was retained, including filing a *lis pendens* and responding to discovery requests.

⁷ All further references to section(s) are to this source.

Count Ten – respondent willfully violated section 6068, subdivision (m) by failing to keep his client informed of significant developments and failing to promptly respond to reasonable status inquiries.

Count Eleven – respondent willfully violated rule 3-700(D)(2) by failing to refund \$7,000 in unearned fees to his client.

Count Twelve – respondent willfully violated section 6068, subdivision (i) by failing to respond to the State Bar investigator's February 25, 2011 letter.

Case Number 10-O-10961 (The Holliday Matter)

Count Thirteen – respondent willfully violated rule 3-110(A) by failing to file proofs of service, appear at court hearings, and defend his client in an unlawful detainer matter.

Count Fourteen – respondent willfully violated section 6068, subdivision (m) by failing to keep his client informed of significant developments and failing to promptly respond to reasonable status inquiries.

Count Fifteen – respondent willfully violated rule 3-700(D)(2) by failing to refund \$6,500 in unearned fees to his client.

Count Sixteen – respondent willfully violated section 6068, subdivision (i) by failing to respond to the State Bar investigator's February 25, 2011 letter.

Case Number 10-O-11083 (The McDonald Matter)

Count Seventeen – respondent willfully violated rule 3-110(A) by failing to take any legal action on his client's behalf.

Count Eighteen – respondent willfully violated section 6068, subdivision (m) by failing to promptly respond to his client's reasonable status inquiries.

Count Nineteen – respondent willfully violated rule 3-700(D)(2) by failing to refund \$3,000 in unearned fees to his client.

Count Twenty – respondent willfully violated section 6068, subdivision (i) by failing to respond to the State Bar investigator’s March 1, 2011 letter.

Case Number 11-O-11583 (The Contreras Matter)

Count Twenty-One – respondent willfully violated rule 3-110(A) by not filing an ex parte application or taking any other legal action on his client’s behalf.

Count Twenty-Two – respondent willfully violated section 6068, subdivision (m) by failing to promptly respond to his client’s reasonable status inquiries.

Count Twenty-Three – respondent willfully violated rule 3-700(D)(2) by failing to refund \$4,000 in unearned fees to his client.

Count Twenty-Four – the court does not find respondent culpable of willfully violating section 6068, subdivision (i), as there is no clear and convincing evidence that respondent received either of the State Bar investigator’s letters.

Case Number 11-O-12552 (The Nunez Matter)

Count Twenty-Five – respondent willfully violated rule 3-110(A) by failing to file a complaint or take any legal action on his client’s behalf.

Count Twenty-Six – respondent willfully violated section 6068, subdivision (m) by failing to promptly respond to his client’s reasonable status inquiries.

Count Twenty-Seven – respondent willfully violated rule 3-700(D)(2) by failing to refund \$5,700 in unearned fees to his client.

Count Twenty-Eight – the court does not find respondent culpable of willfully violating section 6068, subdivision (i), as there is no clear and convincing evidence that respondent received either of the State Bar investigator’s letters.

Case Number 11-O-13235 (The Reyes Matter)

Count Twenty-Nine – respondent willfully violated rule 3-110(A) by failing to take any legal action on his client’s behalf.

Count Thirty – respondent willfully violated section 6068, subdivision (m) by failing to promptly respond to his client’s reasonable status inquiries.

Count Thirty-One – respondent willfully violated rule 3-700(D)(2) by failing to refund \$5,000 in unearned fees to his client.

Count Thirty-Two – respondent willfully violated section 6068, subdivision (i) by failing to respond to the State Bar investigator’s June 13 and June 28, 2011 letters.

Case Number 11-O-13285 (The Sazegar Matter)

Count Thirty-Three – respondent willfully violated rule 3-110(A) by failing to take any legal action on his client’s behalf.

Count Thirty-Four – respondent willfully violated rule 3-700(D)(1) (failure to release file) by failing to return his client’s file upon request, following termination.

Count Thirty-Five – respondent willfully violated rule 3-700(D)(2) by failing to refund \$5,000 in unearned fees to his client.

Count Thirty-Six – respondent willfully violated section 6068, subdivision (i) by failing to respond to the State Bar investigator’s June 13 and June 28, 2011 letters.

Case Number 11-O-13445 (The Landeros Matter)

Count Thirty-Seven – respondent willfully violated rule 3-700(A)(2) by effectively withdrawing from representation without taking reasonable steps to avoid reasonably foreseeable prejudice to his client.

Count Thirty-Eight – respondent willfully violated section 6103 (failure to obey a court order) by knowingly failing to appear at an order to show cause hearing as ordered by the court.

Count Thirty-Nine – respondent willfully violated section 6068, subdivision (o)(3) (failure to report judicial sanctions) by failing to report \$1,500 in judicial sanctions to the State Bar.

Count Forty – respondent willfully violated section 6068, subdivision (i) by failing to respond to the State Bar investigator’s June 13 and June 28, 2011 letters.

Case Number 11-O-13807 (The Janson Matter)

Count Forty-One – respondent willfully violated rule 3-110(A) by failing to perform the legal services for which he was retained.

Count Forty-Two – respondent willfully violated rule 3-700(D)(2) by failing to refund \$500 in unearned fees to his client.

Count Forty-Three – respondent willfully violated section 6068, subdivision (i) by failing to respond to the State Bar investigator’s July 13 and July 28, 2011 letters.

Case Number 11-O-14425 (The Salas Matter)

Count Forty-Four – respondent willfully violated rule 3-110(A) by failing to perform any legal action on his client’s behalf.

Count Forty-Five – respondent willfully violated section 6068, subdivision (m) by failing to promptly respond to his client’s repeated email and telephone inquiries.

Count Forty-Six – respondent willfully violated section 6106 (moral turpitude) by making factual misrepresentations to his client.

Count Forty-Seven – respondent willfully violated rule 3-700(D)(2) by failing to refund \$2,000 in unearned fees to his client.

Count Forty-Eight – respondent willfully violated section 6068, subdivision (i) by failing to respond to the State Bar investigator’s July 12 and July 20, 2011 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 communicated by email and telephone with DTC Radigan;
- (3) the default was properly entered under rule 5.80; and
- (4) the factual allegations in the NDC deemed admitted by the entry of the 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 participate 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 Ramon Mendez Gonzalez be disbarred from the practice of law in the State of California and that his name be stricken from the roll of attorneys.

Restitution

The court also recommends that Ramon Mendez Gonzalez make restitution as follows:

(1) To Alicia Q. Jose in the amount of \$5,000 plus 10 percent interest per annum from June 2, 2010 (or reimburses the Client Security Fund to the extent of any payment from the fund to Alicia Q. Jose in accordance with Business and Professions Code section 6140.5);⁸

(2) Cynthia Hernandez in the amount of \$5,000 plus 10 percent interest per annum from October 1, 2010 (or reimburses the Client Security Fund to the

⁸ Any restitution owed to the Client Security Fund is enforceable as provided in Business and Professions Code section 6140.5, subdivision (c) and (d).

extent of any payment from the fund to Cynthia Hernandez in accordance with Business and Professions Code section 6140.5);

(3) Rodolfo Uribe in the amount of \$7,000 plus 10 percent interest per annum from March 2, 2010 (or reimburses the Client Security Fund to the extent of any payment from the fund to Rodolfo Uribe in accordance with Business and Professions Code section 6140.5);

(4) Kristie Holliday in the amount of \$6,500 plus 10 percent interest per annum from October 26, 2010 (or reimburses the Client Security Fund to the extent of any payment from the fund to Kristie Holliday in accordance with Business and Professions Code section 6140.5);

(5) Salli McDonald in the amount of \$3,000 plus 10 percent interest per annum from December 4, 2010 (or reimburses the Client Security Fund to the extent of any payment from the fund to Salli McDonald in accordance with Business and Professions Code section 6140.5);

(6) Claudia Contreras in the amount of \$4,000 plus 10 percent interest per annum from July 29, 2010 (or reimburses the Client Security Fund to the extent of any payment from the fund to Claudia Contreras in accordance with Business and Professions Code section 6140.5);

(7) Eric Nunez in the amount of \$5,700 plus 10 percent interest per annum from June 3, 2010 (or reimburses the Client Security Fund to the extent of any payment from the fund to Eric Nunez in accordance with Business and Professions Code section 6140.5);

(8) Mario Reyes in the amount of \$5,000 plus 10 percent interest per annum from November 27, 2008 (or reimburses the Client Security Fund to the extent of any payment from the fund to Mario Reyes in accordance with Business and Professions Code section 6140.5);

(9) Jamshid Sazegar in the amount of \$5,000 plus 10 percent interest per annum from May 1, 2010 (or reimburses the Client Security Fund to the extent of any payment from the fund to Jamshid Sazegar in accordance with Business and Professions Code section 6140.5);

(10) Alexis Elisabeth Janson in the amount of \$500 plus 10 percent interest per annum from April 12, 2011 (or reimburses the Client Security Fund to the extent of any payment from the fund to Alexis Elisabeth Janson in accordance with Business and Professions Code section 6140.5); and

(11) Robert Salas in the amount of \$2,000 plus 10 percent interest per annum from August 1, 2010 (or reimburses the Client Security Fund to the extent of any payment from the fund to Robert Salas in accordance with Business and Professions Code section 6140.5).

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 Ramon Mendez Gonzalez, State Bar number 220891, 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: October ____, 2012

RICHARD A. HONN
Judge of the State Bar Court