

STATE BAR COURT OF CALIFORNIA  
HEARING DEPARTMENT – SAN FRANCISCO

In the Matter of ) Case Nos.: **10-O-09894-PEM**  
) (10-O-09896)  
**CHRISTOPHER EDWARD ARRAS,** )  
) **DECISION AND ORDER OF**  
**Member No. 169854,** ) **INVOLUNTARY INACTIVE**  
) **ENROLLMENT**  
A Member of the State Bar. )

In this two-client matter, respondent Christopher Edward Arras (respondent) was charged with (1) failing to perform legal services with competence (two counts); (2) failing to communicate with clients (two counts); (3) failing to deposit client funds in trust; (4) failing to obey a court order; and (5) misappropriation. He failed to participate either in person or through counsel, 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 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),

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

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.<sup>2</sup>

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 February 14, 1994, and has been a member since then.

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

On August 18, 2011, the State Bar filed and properly served the NDC on respondent by certified mail, return receipt requested, at his membership records address. The United States Postal Service returned the NDC as undeliverable. The NDC notified respondent that his failure to participate in the proceeding would result in a disbarment recommendation. (Rule 5.41.)

Thereafter, the State Bar attempted to contact respondent by telephone, but found that respondent did not have a telephone number listed on his membership records. The State Bar called directory assistance for the area which includes respondent's office membership records address; however, no telephone numbers for respondent were located.

The State Bar conducted a Google search and located a website for respondent. The State Bar called the telephone number listed on the website and left a voicemail regarding the pending default and requesting that respondent contact the State Bar.

The State Bar located another telephone number through a LexisNexis search, but respondent could not be reached at this number.

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<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).)

On November 2, 2011, the State Bar sent respondent an email message at the address listed in his official membership records.<sup>3</sup> In this email, the State Bar informed respondent that a default motion was being prepared and urged him to immediately contact either the State Bar or the State Bar Court.

On November 3, 2011, the State Bar received an email response from respondent, stating that he would like to avoid default and reach a fair resolution. On November 3, 2011, the State Bar sent respondent a response, advising that the default motion would be filed the next day and that the parties could possibly enter into settlement discussions if respondent chose to participate in the State Bar Court proceedings.

Respondent, however, failed to file a response to the NDC. On November 4, 2011, the State Bar filed and properly served a motion for entry of respondent's 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 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 January 9, 2012. 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 a motion to set aside default].) On July 24, 2012, the State Bar

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<sup>3</sup> 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).)

filed a 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 no other disciplinary investigations pending; (3) respondent has no record of prior discipline; and (4) the Client Security Fund (CSF) has not paid any claims as a result of respondent's misconduct. 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 September 5, 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 10-O-09896 (The Vallandingham 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 serve the opposing party and failing to diligently seek compensation for his client.

Count Two - respondent willfully violated Business and Professions Code section 6068, subdivision (m) (failure to communicate) by failing to respond to his client's repeated, reasonable status inquiries.

Count Three – respondent willfully violated rule 4-100(A) of the Rules of Professional Conduct (failure to deposit client funds in trust) by failing to deposit client funds earmarked to pay costs into a bank account labeled "Trust Account," "Client's Funds Account," or words of similar import.

Count Four - respondent willfully violated Business and Professions Code section 6106 (moral turpitude) by misappropriating \$650 in client funds.<sup>4</sup>

**Case Number 10-O-09894 (The Brown Matter)**

Count Five – respondent willfully violated rule 3-110(A) of the Rules of Professional Conduct by failing to appear at two court conferences and allowing his client’s lawsuit to be dismissed for lack of prosecution.

Count Six - respondent willfully violated Business and Professions Code section 6068, subdivision (m) by failing to inform his client of significant developments, including respondent’s failure to appear at two hearings and the subsequent dismissal of his client’s case.

Count Seven - respondent willfully violated Business and Professions Code section 6103 (failure to obey a court order) by failing to appear at an order to show cause hearing and failing to pay a \$350 court-ordered sanction.

**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 replied to an email message from the State Bar indicating he was aware of the proceedings;
- (3) the default was properly entered under rule 5.80; and
- (4) the factual allegations in the NDC are deemed admitted by the entry of default and support a finding that respondent violated a statute, rule or court order that would warrant the imposition of discipline.

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<sup>4</sup> Respondent subsequently repaid these funds to the client.

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 Christopher Edward Arras 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 respondent be ordered to pay the \$350 sanction ordered by the San Francisco Superior Court, in case no. CGC-09-486539.

### **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 Christopher Edward Arras, State Bar number 169854, 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

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Pat McElroy  
Judge of the State Bar Court