

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – LOS ANGELES

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| In the Matter of |) | Case No. 11-N-11117 |
| |) | |
| NOLAN CHARLES STRINGFIELD, |) | DECISION AND ORDER OF |
| |) | INVOLUNTARY INACTIVE |
| Member No. 113651, |) | ENROLLMENT |
| |) | |
| A Member of the State Bar. |) | |
| _____ |) | |

Respondent Nolan Charles Stringfield was charged with failing to comply with California Rule of Court, rule 9.20(c) (duties of disbarred, resigned or suspended attorneys). 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

The court concludes in this case 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 June 13, 1984, and has been a member of the State Bar since then.

Procedural Requirements Have Been Satisfied

On March 25, 2011, the State Bar filed and properly served the 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 NDC was returned by the Post Office bearing a stamp indicating that the mail item was not claimed. The State Bar also telephoned respondent at the number listed in respondent's membership records and at another number it had for him in its files. Respondent did not return the calls. The State Bar also sent an email with an attached copy of the NDC to respondent at his membership records email address.³ Respondent sent three replies to the email, the last one informing the State Bar that he was going to resign.⁴ Thereafter, the State Bar and respondent engaged in a series of emails and telephone calls. Respondent admitted in one of the telephone calls that he had received a copy of the NDC.

A status conference was held in this case on June 6, 2011. Respondent appeared by telephone and the court ordered him to file a response to the NDC. He did not do so and on June 7, 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

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).)

⁴ Respondent did not submit a resignation to the State Bar Court as required by California Rule of Court, rule 9.21(a).

5.80.) The motion also notified respondent that if he did not timely move to set aside or vacate his default, the court would recommend his disbarment. Respondent did not file a response to the motion and his default was entered on June 21, 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), and he has remained inactively enrolled since then.

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 January 6, 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 does not have any other disciplinary matters pending against him; (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. (Rule 5.85(D) [attorney has 20 days from service of the petition to move to set aside the default].) The case was submitted for decision on January 31, 2012.

Respondent has been disciplined on one prior occasion. On November 9, 2010, he was suspended for two years, execution of which was stayed, and he was placed on probation for three years on conditions, including an actual suspension for a minimum of one year. Respondent was also ordered to comply with California Rule of Court, rule 9.20. This prior case involved a single client matter and the misconduct included respondent's failure to: perform services competently, communicate with his client, notify his client of the receipt of an \$18,000 settlement check, pay his client's portion of the settlement promptly, and return \$5,000 in unearned fees.

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) by failing to file proof of compliance with the rule as ordered by the Supreme Court in the November 2010 discipline case.⁵

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 this proceeding prior to the entry of his default as he acknowledged receipt of a copy of the NDC and appeared at a status conference in the case;
- (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 adequate 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.

⁵ The court concludes that the charge that respondent also violated Business and Professions Code section 6103 (failure to obey a court order) by the same misconduct is duplicative and therefore declines to find respondent culpable of this charge.

RECOMMENDATION

Disbarment

The court recommends that respondent Nolan Charles Stringfield 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 Business and Professions Code section 6086.10, and that the costs be 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 Nolan Charles Stringfield, State Bar Number 113651, 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: March _____, 2012

LUCY ARMENDARIZ
Judge of the State Bar Court