

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – SAN FRANCISCO

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| In the Matter of |) | Case Nos.: 11-N-12229; 11-O-12398 (Cons.) |
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| STEVEN ALLEN ROYSTON, |) | DECISION AND ORDER OF |
| |) | INVOLUNTARY INACTIVE |
| Member No. 97862, |) | ENROLLMENT |
| |) | |
| <u>A Member of the State Bar.</u> |) | |

Respondent Steven Allen Royston (respondent) was charged with (1) disobeying or violating a court order by failing to comply with a court order requiring him to comply with rule 9.20 of the California Rules of Court (CRC) and violating rule 9.20, subdivision (c) of the CRC; and (2) failing to comply with all conditions attached to a disciplinary probation. 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),

¹ 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.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 May 29, 1981, and has been a member since then.

Procedural Requirements Have Been Satisfied

On May 31, 2011, the State Bar filed and properly served the NDC on respondent by certified mail, return receipt requested, and by regular mail 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 NDC served via certified mail, return receipt requested, was returned by the U.S. Postal Service bearing the stamp "return to sender not deliverable as addressed unable to forward." The NDC sent by regular mail was also returned by the U.S. Postal Service.

Thereafter, the State Bar attempted to reach respondent by telephone at his official membership records telephone number, but the number was disconnected. The State Bar also emailed respondent at the email address listed in his membership records.³

Respondent failed to file a response to the NDC. On June 29, 2011, the State Bar filed and properly served a motion for entry of respondent's default. The motion complied with all

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).)

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 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 July 15, 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 also 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 January 18, 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 has three disciplinary matters pending; (3) respondent has a record of prior discipline; and (4) the Client Security Fund (CSF) has not paid any claims as a result of respondent's misconduct in this matter; however, CSF has previously made payments which were not associated with this matter. 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 February 16, 2012.

Respondent has been disciplined on three prior occasions. Pursuant to a Supreme Court order filed on August 11, 2009, respondent was suspended for one year, the execution of which was stayed, and he was placed on probation for two years. The misconduct involved two client matters. Respondent failed to perform, failed to communicate or inform his client of significant developments, failed to abide by court orders, and failed to return a client file. Respondent and

the State Bar entered into a stipulation as to facts, conclusions of law and the disposition in this matter.

Pursuant to a Supreme Court order filed on January 12, 2011, respondent was suspended for four years, the execution of which was stayed, and he was placed on probation for four years subject to conditions including that he be suspended from the practice of law for a minimum of the first two years of probation and until he makes specified restitution and provides proof of his rehabilitation, fitness to practice and learning and ability in the general law. Respondent was disciplined for his failure to perform with competence, sharing legal fees with a person who was not a lawyer, failing to abide by court orders, failing to participate and cooperate in a disciplinary investigation, committing an act of moral turpitude by making a misrepresentation, failing to comply with conditions attached to a disciplinary probation, and aiding a person in the unauthorized practice of law. Respondent and the State Bar entered into a stipulation as to facts, conclusions of law and the disposition in this matter.

Pursuant to a Supreme Court order filed on August 18, 2011, respondent was suspended for four years, the execution of which was stayed, subject to conditions including that he be suspended from the practice of law for a minimum of two years and until the State Bar Court grants a motion to terminate his suspension and he provides proof of his rehabilitation, fitness to practice and learning and ability in the general law. Respondent failed to file a response to the NDC in this matter, and his default was entered. Discipline was imposed in this matter for respondent's failure to comply with probation conditions imposed in a prior disciplinary matter.

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, subd. (E)(1)(d).)

1. Case Number 11-N-12229 (Rule 9.20 Matter)

Count One - respondent violated CRC, rule 9.20(c) (duties of disbarred, resigned or suspended attorneys) and Business and Professions Code section 6103 (violation of court order) by failing to file proof of compliance as required by rule 9.20(c) as ordered by the Supreme Court in its January 2011 Order.

2. Case Number 11-O-12398 (Probation Matter)

Count Two – respondent violated Business and Professions Code section 6068, subdivision (k) (duty to comply with probation conditions), by failing to comply with all conditions attached to the disciplinary probation ordered by the Supreme Court in its Order filed on January 12, 2011.

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) reasonable diligence was used to notify respondent of the proceedings prior to the entry of his default, as the NDC was served on respondent at his membership records address by both certified and regular mail; the State Bar attempted to reach respondent by telephone at his official membership records telephone number; and the State Bar emailed respondent at the email address listed in his membership records;

(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.

RECOMMENDATION

Disbarment

The court recommends that respondent Steven Allen Royston 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, 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 Steven Allen Royston, State Bar number 97862, be involuntarily enrolled as an

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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