

STATE BAR COURT OF CALIFORNIA  
HEARING DEPARTMENT – LOS ANGELES

In the Matter of	)	Case No.: <b>11-N-18351-RAH</b>
	)	
<b>ANTHONY ALLEN BROCK,</b>	)	<b>DECISION AND ORDER OF</b>
	)	<b>INVOLUNTARY INACTIVE</b>
<b>Member No. 149768,</b>	)	<b>ENROLLMENT</b>
	)	
<u>A Member of the State Bar.</u>	)	

Respondent Anthony Allen Brock (respondent) was charged with violating California Rules 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 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), 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>

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

<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).)

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 4, 1990, and has been a member since then.

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

On December 5, 2011, the State Bar properly filed and served an 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 United States Postal Service returned the NDC as undeliverable.

Thereafter, the State Bar called respondent at his membership records telephone number, but found that it was not in service. The State Bar emailed respondent at his membership records email address, but did not receive a response.<sup>3</sup> The State Bar sent letters to two possible alternate addresses identified in an internet search, but received no response. The State Bar also called and left messages with respondent's former law partner and an individual identified through an internet search as respondent's possible relative, but received no responses.

Respondent failed to file a response to the NDC. On January 17, 2012, 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

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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).)

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 February 2, 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 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 August 13, 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) there are no other disciplinary matters pending against respondent; (3) respondent has a prior record of discipline; and (4) the Client Security Fund has paid out on one claim and there is another outstanding claim resulting from respondent's prior 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 12, 2012.

Respondent has been disciplined on one prior occasion.<sup>4</sup> Pursuant to a Supreme Court order filed on August 10, 2011, respondent was suspended for five years, the execution of which was stayed, and he was suspended from the practice of law for two years and/until: (1) he makes restitution; (2) the State Bar Court grants a motion to terminate his suspension; and (3) he provides proof to the State Bar Court of his rehabilitation, fitness to practice, and learning and ability in the general law. In this default matter, respondent was found culpable of 13 counts of

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<sup>4</sup> 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.

misconduct, including practicing law while suspended, making misrepresentations to his clients, failing to account, failing to refund unearned fees, failing to perform legal services with competence, failing to update his membership address, and the misappropriation of client funds.

### **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 11-N-18351 (Rule 9.20 Matter)**

Respondent violated California Rules of Court, rule 9.20(c) (duties of disbarred, resigned or suspended attorneys-compliance affidavit) by failing to submit a timely rule 9.20(c) compliance declaration as ordered by the Supreme Court in its August 10, 2011 order.

### **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 State Bar made various efforts to locate respondent, including properly him with the NDC, calling his membership records telephone number, emailing his membership records email address, mailing correspondence to respondent at two additional possible addresses, and calling and leaving messages with respondent's former law partner and an individual identified through an internet search as respondent's possible relative;

(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.

## **RECOMMENDATIONS**

### **Disbarment**

The court recommends that respondent Anthony Allen Brock be disbarred from the practice of law in the State of California and that his name be stricken from the roll of attorneys.

### **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 Anthony Allen Brock, State Bar number 149768, 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: November \_\_\_\_\_, 2012

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RICHARD A. HONN  
Judge of the State Bar Court