FILED NOVEMBER 21, 2013

STATE BAR COURT OF CALIFORNIA

HEARING DEPARTMENT – LOS ANGELES

In the Matter of **MARTIN BARRY SNYDER,** **Member No. 78253,** A Member of the State Bar.	)))))))	Case No.: **12-H-16624-RAP** **DECISION AND ORDER OF INVOLUNTARY INACTIVE ENROLLMENT**

Respondent Martin Barry Snyder (respondent) was charged with failing to comply with conditions attached to a prior public reproval. 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.[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]

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[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).)

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 21, 1977, and has been a member since then.

Procedural Requirements Have Been Satisfied

On October 25, 2012, the State Bar filed and properly served the 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 did not receive a signed return card.

Thereafter, the State Bar: (1) attempted to reach respondent twice by telephone at his official membership records telephone number and left a voicemail message each time; (2) sent a letter with notice of the State Bar's intent to file a Motion for Entry of Default and a courtesy copy of the NDC to respondent by regular, first-class mail to respondent's official membership records address; and (3) sent an email to respondent at an email address respondent provided to the State Bar.[3]

Respondent failed to file a response to the NDC. On December 12, 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 set aside his default, the court would recommend his disbarment. Respondent did not file a

[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).)

response to the motion, and his default was entered on January 17, 2013. 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 July 23, 2013, the State Bar properly served the petition for disbarment. As required by rule 5.85(A), the State Bar reported in the petition that: (1) respondent has not contacted the State Bar since his 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 (CSF) has not made any payments resulting from 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 September 9, 2013.

Respondent has a prior record of discipline.[4] Effective January 27, 2010, respondent was publicly reproved with conditions for two years as a result of his July 29, 2008 conviction of violating Vehicle Code section 23152, subdivision (b) [driving with blood alcohol level of .08% or more] with a prior DUI conviction and his September 15, 2008, conviction of violating Vehicle Code section 23152(b). Respondent stipulated that the facts and circumstances surrounding his criminal violations did not involve moral turpitude but did involve other misconduct warranting discipline. He also stipulated that by violating Vehicle Code section

[4] The court admits into evidence the certified copy of respondent's prior record of discipline that is attached as Attachment 1 to the State Bar's July 24, 2013, petition for disbarment after default.

23152, subdivision (b), he violated Business Code section 6068, subdivision (a), by failing to support the laws of California.

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 12-H-16624 (Reproval Matter)

Count One – respondent willfully violated rule 1-110 of the Rules of Professional Conduct (failure to comply with conditions of reproval) by failing to comply with specified conditions of his public reproval effective on January 27, 2010.

Disbarment is Recommended

Based on the above, the court concludes that the requirements of rule 5.85(E) have been satisfied, and respondent's disbarment is 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 filed and properly served the NDC on respondent and attempted to contact respondent by: (1) email; (2) regular, first-class mail to his membership records address; and (3) telephone on two occasions at his official membership records telephone number;

(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 recommends disbarment.

RECOMMENDATION

Disbarment

The court recommends that respondent Martin Barry Snyder 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.

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ORDER OF INVOLUNTARY INACTIVE ENROLLMENT

In accordance with Business and Professions Code section 6007, subdivision (c)(4), the court orders that Martin Barry Snyder, State Bar number 78253, 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 18, 2013

RICHARD A. PLATEL
Judge of the State Bar Court