

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – SAN FRANCISCO

In the Matter of)	Case No.: 12-N-11603-PEM
)	
RAYMOND VAUGHN PATTON,)	DECISION AND ORDER OF
)	INVOLUNTARY INACTIVE
Member No. 196791,)	ENROLLMENT
)	
<u>A Member of the State Bar.</u>)	

Respondent Raymond Vaughn Patton (respondent) was charged with violating California Rules of Court, rule 9.20, and disobeying a court order by willfully failing to comply with rule 9.20 as ordered by the Supreme Court. 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

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 November 23, 1998, and has been a member since then.

Procedural Requirements Have Been Satisfied

On March 22, 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 NDC was not returned to the State Bar by the United States Postal Service.

Thereafter, the State Bar, knowing respondent was on disciplinary probation, contacted his probation deputy in an effort to locate an alternative address. The State Bar attempted to reach respondent by telephone at his official membership records telephone number and left a message informing respondent that the State Bar intended to file a default motion in the present matter. The State Bar also emailed a copy of the NDC to respondent at his membership records email address.³

Respondent, however, failed to file a response to the NDC. On April 23, 2012, the State Bar filed and properly served upon respondent 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

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).)

timely move to set aside his default, the court would recommend his disbarment. Respondent did not file a response to the motion, and respondent's default was entered on May 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 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 November 27, 2012, the State Bar filed and properly served the petition for disbarment on respondent by certified mail, return receipt requested, to his membership records address. As required by rule 5.85(A), the State Bar reported in the petition that: (1) there has been no contact with respondent since his default was entered; (2) there is one other disciplinary matter pending against respondent; (3) respondent has a prior record of discipline; and (4) the Client Security Fund has not made payments resulting from 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 December 27, 2012.

Respondent has been disciplined on two prior occasions.⁴ Effective November 20, 2008, respondent was privately reprimanded with conditions in State Bar Court case No. 07-O-10388. In this single-client matter, respondent stipulated to failing to communicate with a client and failing to promptly return the client's papers and properties.

⁴ The court takes judicial notice of the pertinent State Bar Court records regarding these prior disciplines, admits them into evidence, and directs the Clerk to include copies in the record of this case.

Pursuant to a Supreme Court order filed on November 30, 2011, respondent was suspended for three years, the execution of which was stayed, and he was placed on probation for three years, including a suspension of two years and until respondent establishes his rehabilitation, fitness to practice, and learning and ability in the general law. In this matter, respondent stipulated to misconduct in seven matters, including: failing to competently perform legal services (six counts); disobeying a court order (two counts); failing to report sanctions (one count); failing to cooperate in disciplinary investigations (six counts); failing to maintain respect to the court (one count); failing to communicate (six counts); failing to release client files (two counts); failing to refund unearned fees (two counts); improper withdrawal (one count); and failing to comply with conditions attached to a reproof (one count).

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).)

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Respondent willfully violated California Rules of Court, rule 9.20 (duties of disbarred, resigned or suspended attorneys), by not filing a declaration of compliance with rule 9.20 in conformity with the requirements of rule 9.20(c), thereby failing to timely comply with the provisions of a Supreme Court order requiring compliance with California Rules of Court, rule 9.20.

Respondent's willful failure to comply with rule 9.20, subdivision (c), as ordered by the Supreme Court, also constitutes a violation of section 6103 of the Business and Professions Code (violation of court order).

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 properly served him with the NDC and made various efforts to notify respondent of the proceeding such as: calling and leaving a message at his membership records telephone number; emailing a copy of the NDC to his membership records email address; and checking respondent's disciplinary probation profile for any other addresses;
- (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 Raymond Vaughn Patton 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 Raymond Vaughn Patton, State Bar number 196791, 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: April _____, 2013

Pat McElroy
Judge of the State Bar Court