

**FILED**

**AUG 12 2013**

STATE BAR COURT CLERK'S OFFICE  
SAN FRANCISCO

**STATE BAR COURT OF CALIFORNIA  
HEARING DEPARTMENT – SAN FRANCISCO**

In the Matter of ) Case No.: **12-O-13306**  
)  
**JOHN KIYO HUSTER** )  
) **ORDER**  
**Member No. 175565** )  
)  
A Member of the State Bar. )

On July 24, 2013, respondent John Kito Huster filed a motion to set aside his default. On August 2, 2013, the State Bar filed a response opposing the motion. Respondent's default was entered by order filed January 25, 2013, for failing to file a response to the notice of disciplinary charges (NDC).

The law favors a trial on the merits. Doubts in deciding whether to grant a motion to set aside a default are resolved in favor of the party seeking relief, and if that party has moved promptly for relief, only slight evidence will justify an order granting relief. (*Elston v. City of Turlock* (1985) 38 Cal.3d 227, 233.) Respondent's depression provides sufficient evidence to conclude that respondent's failure to file a response to the NDC was a result of his mistake, inadvertence, surprise, or excusable neglect within the meaning of Code of Civil Procedure, section 473, subdivision (b). The motion to set aside the default is therefore granted and the default is set aside.

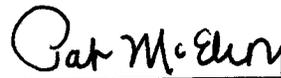
Respondent's involuntary inactive enrollment imposed by the court's January 25, 2013, order is terminated, effective as of the file date of this order. This order does not affect respondent's ineligibility to practice law that has been imposed for any other cause.

Respondent is ordered to file a verified response to the NDC within five days of service of this order.

A status conference is set for August 26, 2013, at 10:00 a.m. to discuss new trial and related dates.

**IT IS SO ORDERED.**

Dated: August 12, 2013



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PAT McELROY  
Judge of the State Bar Court

## CERTIFICATE OF SERVICE

[Rule 62(b), Rules Proc.; Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of San Francisco, on August 12, 2013, I deposited a true copy of the following document(s):

ORDER

in a sealed envelope for collection and mailing on that date as follows:

- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

JOHN KIYO HUSTER  
THE HUSTER LAW GROUP  
140 GEARY ST 7TH FL  
SAN FRANCISCO, CA 94108

- by certified mail, No. , with return receipt requested, through the United States Postal Service at , California, addressed as follows:

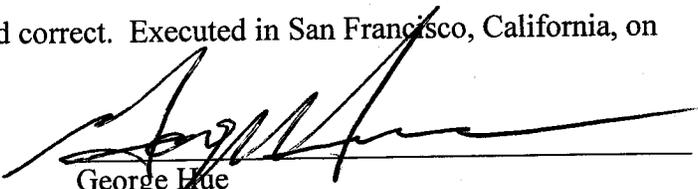
- by overnight mail at , California, addressed as follows:

- By personal service by leaving the documents in a sealed envelope or package clearly labeled to identify the attorney being served with a receptionist or a person having charge of the attorney's office, addressed as follows:

- by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

Steven Egler, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on August 12, 2013.

  
George Hue  
Case Administrator  
State Bar Court