

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – SAN FRANCISCO

In the Matter of) Case Nos.: **12-O-14682-LMA**
) 12-O-15071; 12-O-10188 (Cons.)
SCOTT LOREN STEEVER,)
) **DECISION AND ORDER OF**
Member No. 180189,) **INVOLUNTARY INACTIVE**
) **ENROLLMENT**
A Member of the State Bar.)

In this matter, respondent Scott Loren Steever was charged with nine counts of misconduct stemming from three client matters. Respondent failed to participate either in person or through counsel, and his default was entered. The Office of the Chief Trial Counsel of the State Bar of California (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 December 6, 1995, and has been a member since then.

Procedural Requirements Have Been Satisfied

On December 3, 2013, the State Bar properly filed and served an NDC, in case no. 12-O-14682, on respondent by certified mail, return receipt requested, at his membership records address. On December 4, 2013, the State Bar properly filed and served two additional NDCs, in case nos. 12-O-15071 and 12-O-10188, on respondent by certified mail, return receipt requested, at his membership records address. The NDCs notified respondent that his failure to participate in the proceedings would result in a disbarment recommendation. (Rule 5.41.) The NDCs were not returned to the State Bar by the U.S. Postal Service as undeliverable or for any other reason.³

In addition, reasonable diligence was also used to notify respondent of this proceeding. The State Bar made several attempts to contact respondent without success. Prior to filing the NDCs, respondent attended an Early Neutral Evaluation Conference (ENEC) in case no. 12-O-10188, on November 29, 2012. Respondent also attended ENECs in case nos. 12-O-14682 and 12-O-15071, on January 14 and February 25, 2013, respectively. Also prior to filing the NDCs, the deputy trial counsel of the State Bar had several conversations, via telephone and email, with respondent regarding possible resolution of the matters.

³ The allegations in two of the three NDCs charged a second attorney, Robert L. Anderson, with the same misconduct. These two matters were subsequently severed, so respondent and Anderson could be tried separately. Respondent's three matters were then consolidated.

After filing the three NDCs, the State Bar sent copies of the NDCs to respondent at his official membership records address by regular first class mail. The State Bar also emailed copies of the NDCs to respondent at his email address. In addition, the State Bar called respondent at his official membership records telephone number and left a message regarding the State Bar's intention to file a motion for entry of default.

Respondent failed to file a response to the NDCs. On January 14, 2014, 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 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 response to the motion, and his default was entered on January 30, 2014. 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 7, 2014, 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 no other disciplinary matters pending; (3) respondent has no prior record of discipline; and (4) the Client Security Fund 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 3, 2014.

The Admitted Factual Allegations Warrant the Imposition of Discipline

Upon entry of respondent's default, the factual allegations in the NDCs 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 NDCs support the conclusion that respondent is culpable as charged, except as otherwise noted, and, therefore, violated a statute, rule, or court order that would warrant the imposition of discipline. (Rule 5.85(E)(1)(d).)

Case No. 12-O-14682 – The Ramirez Matter

Count One – respondent willfully violated Rules of Professional Conduct, rule 4-100(A) (failure to deposit client funds in trust) by receiving client funds and failing to deposit them in a bank account labeled "Trust Account," "Client's Funds Account," or words of similar import.

Count Two – respondent willfully violated Business and Professions Code section 6106 (moral turpitude – misappropriation) by dishonestly or grossly negligently misappropriating entrusted client funds in the amount of \$54,947 for respondent's own purposes.

Case No. 12-O-15071 – The Margolin Matter

Count One – respondent willfully violated Rules of Professional Conduct, rule 4-100(A) (failure to maintain client funds in trust) by depositing client funds in a client trust account, but subsequently failing to maintain those funds in trust.

Count Two – respondent willfully violated Business and Professions Code section 6106 (moral turpitude – misappropriation) by dishonestly or grossly negligently misappropriating entrusted client funds in the amount of \$209,000 for respondent's own purposes.

Count Three – respondent willfully violated Rules of Professional Conduct, rule 4-100(B)(4) (failure to promptly pay client funds) by failing to pay out any portion of the \$209,000 in client funds held by respondent on his client's behalf.

Case No. 12-O-10188 – The Gemjak Enterprises Matter

Count One – the court does not find respondent culpable of willfully violating Rules of Professional Conduct, rule 3-110(A) (failure to perform) as there is no clear and convincing evidence that respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence.⁴

Count Two – the court does not find respondent culpable of willfully violating Business and Professions Code section 6104 (appearing without authority) as there is no clear and convincing evidence that respondent appeared as an attorney for a party without authority.

Count Three – respondent willfully violated Rules of Professional Conduct, rule 3-700(D)(1) (failure to release file) by failing to promptly release his client’s file upon request.

Count Four – respondent willfully violated Business and Professions Code section 6068, subdivision (o)(2) (failure to report judgment), by failing to report a civil judgment against respondent for breach of fiduciary duty to the agency charged with attorney discipline, in writing, within 30 days of the time respondent had knowledge of the entry of the judgment.

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 NDCs were 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 NDCs and made various efforts to contact respondent, including sending copies of the NDCs to respondent at his official

⁴ The State Bar merely alleged that respondent “performed no legal services of value.” This allegation is vague and arbitrary and does not establish, by clear and convincing evidence, that respondent intentionally, recklessly, or repeatedly failed to perform competent legal services.

membership records address by regular first class mail, emailing copies of the NDCs to respondent at his email address, and calling respondent and leaving a message at his official membership records telephone number;

(3) the default was properly entered under rule 5.80; and

(4) the factual allegations in the NDCs 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.

RECOMMENDATIONS

Disbarment

The court recommends that respondent Scott Loren Steever be disbarred from the practice of law in the State of California and that his name be stricken from the roll of attorneys.

Restitution

The court also recommends that respondent be ordered to make restitution to the following payees:

- (1) Joanna Ramirez in the amount of \$54,947 plus 10 percent interest per year from October 28, 2011; and
- (2) Bonnie Margolin in the amount of \$209,000 plus 10 percent interest per year from November 13, 2009.

Any restitution owed to the Client Security Fund is enforceable as provided in Business and Professions Code section 6140.5, subdivisions (c) and (d).⁵

⁵ As noted above, a second attorney, Robert L. Anderson, was charged in the Ramirez and Margolin matters. If Anderson is required to pay any of this same restitution, this restitution should be paid by respondent and Anderson, jointly and severally.

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 Scott Loren Steever, State Bar number 180189, 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 _____, 2014

LUCY ARMENDARIZ
Judge of the State Bar Court