

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – SAN FRANCISCO

In the Matter of) Case Nos.: **13-O-10065-PEM**
) (13-O-10377)
JAMES PATRICK CHANDLER,)
) **DECISION AND ORDER OF**
Member No. 215886,) **INVOLUNTARY INACTIVE**
) **ENROLLMENT**
A Member of the State Bar.)
_____)

In this matter, respondent James Patrick Chandler was charged with seven counts of misconduct stemming from two separate matters. He failed to appear at the trial of this case 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 appear at trial after receiving adequate notice and opportunity. The rule provides that, if an attorney’s default is entered for failing to appear at trial and the attorney fails to have the default set aside or vacated within 90 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. A portion of the rules were revised on July 1, 2014. For the purposes of this decision, the court applies the rules as written prior to the July 1, 2014 revisions.

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 3, 2001, and has been a member since then.

Procedural Requirements Have Been Satisfied

On August 22, 2013, the State Bar filed and properly served a notice of disciplinary charges (NDC) on respondent at his membership records address by certified mail, return receipt requested. The NDC notified respondent that his failure to appear at the State Bar Court trial would result in a disbarment recommendation. (Rule 5.41.) On October 21, 2013, respondent was present in court for a status conference. On December 5, 2013, respondent filed his response to the NDC.

By order filed October 22, 2013, trial was set to begin on December 17, 2013. The order setting the trial date was properly served on respondent. (Rule 5.81(A).)

On December 4, 2013, the State Bar filed a motion to exclude respondent from presenting exhibits and testimony at trial due to his failure to timely file a pre-trial statement (motion to exclude). On December 10, 2013, the court granted the State Bar's motion to exclude, with the caveat that respondent would be permitted to testify on his own behalf. A copy of this order was properly served on respondent at his official membership records address.

On December 17, 2013, the State Bar appeared for trial but respondent did not. Finding that all of the requirements of rule 5.81(A) were satisfied, the court issued and properly served an order entering respondent's default that same day. The order notified respondent that if he did not timely move to set aside or vacate his default, the court would recommend his disbarment.

The order also placed respondent on involuntary inactive status under Business and Professions Code section 6007, subdivision (e), and he has remained inactive since that time.

Respondent did not seek to have his default set aside or vacated. (Rule 5.83(C)(2) [attorney has 90 days after order entering default is served to file motion to set aside default].) On April 3, 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 other disciplinary matters pending in investigation; (3) respondent has one record of prior discipline; and (4) the Client Security Fund has not made any payments resulting from respondent's misconduct. Respondent has not responded to the petition for disbarment or moved to set aside or vacate the default. The case was submitted for decision on April 29, 2014.

Respondent has been disciplined on one prior occasion. Pursuant to a Supreme Court order filed on November 13, 2013, respondent was suspended for two years, the execution of which was stayed, and he was placed on probation for three years, including a minimum period of suspension of two years and until payment of restitution and satisfactory proof to the State Bar Court of his rehabilitation, fitness to practice, and learning and ability in the general law. In this contested matter, respondent was found culpable on five counts of misconduct stemming from three matters, including misrepresentation involving moral turpitude, failing to competently perform legal services, failing to return unearned fees, seeking to mislead a judge, and failing to obey a court order.

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, 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 Number 13-O-10065 (The Bankruptcy Court Matter)

Count One – respondent willfully violated Business and Professions Code section 6068, subdivision (a) (duty to support all laws) by knowingly violating the automatic stay provisions of the Bankruptcy Code, 11 U.S.C. section 362(a)(1).

Count Two – respondent willfully violated Business and Professions Code section 6068, subdivision (d) (seeking to mislead a judge) by knowingly making false representations to the Sonoma County Superior Court.

Count Three – respondent willfully violated Business and Professions Code section 6106 (moral turpitude – misrepresentation) by knowingly or with gross negligence making false representations to the Sonoma County Superior Court.

Count Four – respondent willfully violated Business and Professions Code section 6068, subdivision (o)(3) (failure to report judicial sanctions) by failing to report two judicial sanctions in excess of \$1,000, despite having knowledge of the sanctions.

Count Five – respondent willfully violated Business and Professions Code section 6068, subdivision (i) (failure to cooperate with a State Bar investigation) by receiving and failing to provide a written response to letters from a State Bar investigator seeking a response.

Case Number 13-O-10377 (The Sacramento County Superior Court Matter)

Count Six – respondent willfully violated rule 3-200(B) of the Rules of Professional Conduct (presenting an unwarranted claim) by continuing employment when he knew or should have known the objective of employment was to present, without legitimate reason, a claim in litigation that was not warranted under existing law.

Count Seven – respondent willfully violated Business and Professions Code section 6068, subdivision (i) (failure to cooperate with a State Bar investigation) by receiving and failing to provide a written response to letters from a State Bar investigator seeking a response.

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) respondent had actual notice of the proceedings prior to the entry of his default, as he filed a response to the NDC, appeared in court on multiple occasions, and was properly served with notice of the trial date;
- (3) the default was properly entered under rule 5.81; and
- (4) the factual allegations in the NDC deemed admitted by the entry of default support a finding that respondent violated a statute, rule, or court order that would warrant the imposition of discipline.

Despite actual notice and opportunity, respondent failed to appear for the trial 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 James Patrick Chandler 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 James Patrick Chandler, State Bar number 215886, 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: August _____, 2014

Pat McElroy
Judge of the State Bar Court