

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – LOS ANGELES

In the Matter of)	Case No.: 13-O-12325-LMA
)	
SAVIZ SEBGHATI,)	DECISION AND ORDER OF
)	INVOLUNTARY INACTIVE
Member No. 124978,)	ENROLLMENT
)	
<u>A Member of the State Bar.</u>)	

Respondent Saviz Sebghati (respondent) was charged with (1) failing to comply with laws by engaging in the unauthorized practice of law; and (2) moral turpitude. He failed to file a response to the notice of disciplinary charges (NDC), 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 NDC and the attorney fails to have

¹ Unless otherwise indicated, all references to rules in this Decision and Order are to the Rules of Procedure of the State Bar which were in effect from January 1, 2011, through June 30, 2014. Although amendments to the default rules were effective July 1, 2014, as respondent's default was entered prior to the effective date of the rule amendments, the rules in effect from January 1, 2011, through June 30, 2014, are the operative rules in this matter.

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

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 11, 1986, and has been a member since then.

Procedural Requirements Have Been Satisfied

On December 4, 2013, the State Bar filed and properly served the NDC on respondent by certified mail, return receipt requested, to 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 received a return card on December 6, 2013, signed by Cissy Songalia.

Respondent had actual notice of this proceeding, as he participated in a telephonic status conference held on January 13, 2014,³ and the court informed respondent that he had not filed a response to the NDC.

In addition, Deputy Trial Counsel Elizabeth Stine (DTC Stine) spoke to respondent by telephone on January 13, 2014, after the status conference, and advised him of her intent to file a motion for entry of his default if a response to the NDC was not filed by January 17, 2014.

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).)

³ Respondent had previously requested an early neutral evaluation conference (ENEC) and participated in an ENEC held on November 26, 2013.

DTC Stine also attempted to reach respondent by telephone on February 5, 2014, at his membership records telephone number and left a message asking respondent to call her back at her direct number to discuss her intent to file a motion for entry of respondent's default since he had not filed a response to the NDC. That same day, DTC Stine also emailed respondent at his membership records email with notice of her intention to file a motion for entry of respondent's default if she did not receive a response to the NDC by February 10, 2014.⁴ Respondent did not respond to DTC Stine's telephone or email message or file a response to the NDC.

As respondent failed to file a response to the NDC, on February 14, 2014, the State Bar properly served on respondent a motion for entry of his default by certified mail, return receipt requested, to his membership records address.⁵ The motion complied with the requirements for a default, including a supporting declaration reflecting that respondent had actual notice of the disciplinary proceeding and 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. (Rule 5.80.) Respondent did not file a response to the motion, and his default was entered on March 5, 2014. The order entering the default was properly 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. He has remained inactively enrolled since that time. The order was returned by the U.S. Postal Service with a stamp reflecting that the commercial mail receiving agency is not or is no longer authorized to receive mail for respondent.

⁴ According to the declaration of DTC Stine attached to her motion for entry of respondent's default, "[t]he email message did not 'bounce back.'"

⁵ The motion was filed with the court on February 19, 2014.

Respondent 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 September 10, 2014, the State Bar properly served a petition for disbarment on respondent by certified mail, return receipt requested, to his membership records address.⁶ As required by rule 5.85(A), the State Bar reported in the petition that: (1) respondent has contacted DTC Stine or the State Bar twice since the order entering his default was served.⁷ DTC Stine spoke to respondent by telephone on September 4 and 5, 2014, and confirmed that the court had entered respondent's default on March 5, 2014, and that she would be filing a petition for disbarment the week of September 8, 2014; (2) there are no investigations pending against respondent; (3) respondent does not have a prior record of discipline; and (4) the Client Security Fund (CSF) has not paid out any claims as a resulting of respondent's prior 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 October 7, 2014.

The Admitted Factual Allegations Warrant the Imposition of Discipline

Upon entry of a 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 of the statutory violations 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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⁶ The petition for disbarment was filed with the court on September 12, 2014.

⁷ The order was served the same day the default was entered.

Case Number 13-O-12325 (Garza Matter)

Count One - respondent willfully violated Business and Professions Code section 6068, subdivision (a)⁸ [duty to support the Constitution and laws of the United States and California] by holding himself out as entitled to practice law and actually practicing law when he was not an active member of the State Bar by filing an answer on behalf of his client in a superior court matter in violation of sections 6125 and 6126.

Count Two – respondent willfully violated section 6106 (moral turpitude) by holding himself out as entitled to practice law and actually practicing law when he knew, or was grossly negligent in not knowing, that he was not an active member of the State Bar when he filed an answer on behalf of a client in a superior court matter, thereby committing an act involving moral turpitude, dishonesty, or corruption.

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
 - (a) he participated in a telephonic status conference at which the court informed respondent that he had not filed a response to the NDC; and
 - (b) DTC Stine spoke to respondent by telephone and advised him of her intent to file a motion for entry of his default if a response to the NDC was not filed by a certain date. In addition, DTC Stine attempted to reach respondent by telephone and also emailed respondent at his membership records email;
- (3) the default was properly entered under rule 5.80; and

⁸ All further references to section(s) refer to provisions of the Business and Professions Code.

(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 actual 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 Saviz Sebghati 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 Saviz Sebghati, State Bar number 124978, be involuntarily enrolled as an

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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: December _____, 2014

LUCY ARMENDARIZ
Judge of the State Bar Court