

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – LOS ANGELES

In the Matter of)	Case Nos.: 13-O-12923-DFM
)	13-O-13602 (Cons.)
LEE SIK NO,)	
)	DECISION AND ORDER OF
Member No. 249092,)	INVOLUNTARY INACTIVE
)	ENROLLMENT
A Member of the State Bar.)	

Respondent **Lee Sik No** (Respondent) is charged here with six counts of misconduct. 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

¹ Unless otherwise indicated, all references to rules are to the Rules of Procedure of the State Bar which were in effect prior to July 1, 2014. Among other amendments, the default rules were amended effective July 1, 2014. However, as Respondent's default was entered prior to July 1, 2014, the rules which were in effect prior to July 1, 2014, are the operative rules in this matter.

(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

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 June 1, 2007, and has been a member since then.

Procedural Requirements Have Been Satisfied

On October 30, 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.)

Thereafter, the State Bar (1) called Respondent at his membership records telephone number on December 16, 2013, but was unable to leave a message as the call would automatically be terminated with an indication that the number was not accepting calls; (2) sent an email to Respondent on December 16, 2013, at his membership records email address, advising him that the State Bar had been unable to contact him by letter or by telephone and asking him to contact the deputy trial counsel (DTC) to discuss the instant case; (3) conducted an online 411 search for Respondent on December 16, 2013 and received no "hits"; and (4) on December 16, 2013, conducted an online reverse phone search using Respondent's membership records telephone number, which resulted in one "hit" - an old address for

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).)

Respondent. The DTC has had no contact with Respondent as a result of these attempts to reach him.

Respondent failed to file a response to the NDC. On January 6, 2014, the State Bar filed and properly served a motion for entry of default on Respondent by certified mail, return receipt requested, to his membership records address. The motion complied with all the requirements for a default, including a supporting declaration of reasonable diligence by the State Bar investigator and DTC 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 22, 2014. The order entering the default was properly served on Respondent at his membership records address by certified mail, return receipt requested, and a copy was also sent by first-class mail. 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.

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 July 24, 2014, 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) Respondent had no contact with the State Bar after his default was entered on January 22, 2014; (2) there are no other disciplinary matters pending against Respondent; (3) Respondent has a record of prior 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 August 21, 2014.

Respondent has two prior records of discipline.³

Pursuant to a Supreme Court order filed on July 19, 2012, Respondent was suspended for one year, stayed, and placed on probation for two years, on condition that he be suspended for 90 days. Respondent stipulated that he willfully violated rule 3-700(D)(2) of the State Bar Rules of Professional Conduct (three counts) and Business and Professions Code sections 6106.3 (four counts) and 6068, subdivision (j)..⁴

Thereafter, pursuant to a Supreme Court order filed on September 26, 2013, Respondent was suspended for two years, stayed, and placed on probation for three years, subject to certain conditions, including that he be suspended from the practice of law for a minimum of six months and until he makes specified restitution and provides proof to the State Bar Court of his rehabilitation, fitness to practice, and learning and ability in the general law if he remains suspended for two years or more. Respondent stipulated that he willfully violated rules 3-110(A) (two counts) and 3-700(D)(2) (one count) of the State Bar Rules of Professional Conduct and sections 6106 and 6106.3 (one count each) and 6068, subdivisions (i) and (m) (two counts each). Respondent has remained ineligible to practice since that order became effective.

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

³ The court takes judicial notice of the relevant State Bar court records regarding the two prior discipline records, admits them into evidence and directs the clerk to include copies in the record of this case.

⁴ Unless otherwise indicated, all further references to section(s) refer to provisions of the Business and Professions Code.

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).)

Case Number 13-O-12923 (Sang Sook Won Matter)

Count One – Respondent willfully violated rule 3-110(A) of the Rules of Professional Conduct (intentionally, recklessly or repeatedly failing to perform with competence) by filing a lawsuit for Won and, thereafter, not performing any services for him, resulting in the court’s dismissal of the action for lack of prosecution.

Count Two – Respondent willfully violated section 6068, subdivision (m) (failing to respond to client inquiries) by not responding promptly to approximately 60 reasonable telephonic status inquiries made by his client between February 2011 and November 2012 and three reasonable written status inquiries between August 2012 and May 2013, which Respondent received regarding a matter in which he had agreed to provide legal services.

Count Three – Respondent willfully violated rule 3-700(A)(2) of the Rules of Professional Conduct (improper withdrawal from employment) by constructively terminating his employment on February 28, 2011; by not taking any action on his client’s behalf after filing a lawsuit on that date and thereafter not performing any services for him; and by not informing the client that he was withdrawing from employment.

Count Four – Respondent willfully violated section 6068, subdivision (i) (failing to cooperate/participate in a disciplinary investigation) by failing to respond to a State Bar investigator’s two letters, received by Respondent and requesting his response to allegations of misconduct being investigated in the *Won* matter.

Count Five – Respondent willfully violated section 6103 (failure to obey a court order) by not complying with an April 30, 2012 sanctions order against him in *Sang Sook Won v. Hana Promotion, et al.*, Los Angeles Superior Court case No. VC 058 212.

2. Case Number 13-O-13602 (Probation Violation Matter)

Count Six – Respondent willfully violated section 6068, subdivision (k) (failure to comply with probation conditions) by (1) failing to timely submit three quarterly reports; (2) failing to timely submit to the Office of Probation satisfactory proof of restitution payments owed to four parties; (3) failing to pay any installment restitution payments by August 11, 2012; and (4) failing to attend Ethics School as ordered in Supreme Court order No. S202234 (State Bar Court case No. 11-O-13960).

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 (a) filed and properly served the NDC on Respondent by certified mail, return receipt requested, at his membership records address; (b) tried to call Respondent on December 16, 2013, at his membership records telephone number but was unable to leave a message as the number was not accepting calls; (c) sent an email to Respondent on December 16, 2013, at his membership records email address regarding this matter and also conducted two online searches to locate Respondent.

(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 **Lee Sik No**, Member No. 249092, 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 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 **Lee Sik No**, Member No. 249092, be involuntarily enrolled as an inactive

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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

DONALD F. MILES
Judge of the State Bar Court