

within 45 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 2, 1996, and has been a member since that date.

Procedural Requirements Have Been Satisfied

On June 27, 2014, the State Bar filed and properly served a notice of disciplinary charges ("NDC"), in case nos. 13-O-14121 (13-O-14824; 13-O-15828), on Respondent's attorney, Michael Wine, 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 July 24, 2014, Respondent filed his response to the NDC.

On August 14, 2014, the State Bar filed and properly served a second NDC, in case no. 14-O-00208, on Respondent's attorney, Michael Wine, by certified mail, return receipt requested. The second NDC again notified Respondent that his failure to appear at the State Bar Court trial would result in a disbarment recommendation. On September 2, 2014, Respondent filed his response to the second NDC.

On November 20, 2014, the State Bar filed and properly served a third NDC, in case nos. 14-O-01755 (14-O-01799; 14-O-03299; 14-O-03395; 14-O-03732), on Respondent's attorney, Michael Wine, by certified mail, return receipt requested. The third NDC again

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(F)(2).)

notified Respondent that his failure to appear at the State Bar Court trial would result in a disbarment recommendation. On January 27, 2015, Respondent filed his response to the third NDC.

On May 11, 2015, the State Bar filed and properly served a fourth NDC, in case nos. 14-O-04976 (14-O-05047; 14-O-06356), on Respondent at his membership records address by certified mail, return receipt requested. The fourth NDC also notified Respondent that his failure to appear at the State Bar Court trial would result in a disbarment recommendation. Respondent did not file a response to the fourth NDC.

The State Bar filed and properly served a fifth NDC, in case nos. 14-O-05337 (14-O-05952; 14-O-06019; 14-O-06064; 14-O-06461), on Respondent at his membership records address by certified mail, return receipt requested. The fifth NDC, filed and served on June 22, 2015, notified Respondent that his failure to appear at the State Bar Court trial would result in a disbarment recommendation. On July 22, 2015, Respondent filed his response to the fifth NDC.

Respondent and his counsel appeared at multiple status conferences in this matter. Following the granting of a motion to continue, trial was set to commence on October 26, 2015. Respondent was present at the June 24, 2015 status conference in which the trial dates were set, and a copy of the order setting trial dates was properly served on Respondent's attorney, Kenneth Kocourek. (Rule 5.81(A).)

The parties filed a Stipulation to Consolidating the Notices of Disciplinary Charges on October 26, 2015. That same day, 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. 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 date.

Respondent did not seek to have his default set aside or vacated. (Rule 5.83(C)(2) [attorney has 45 days after order entering default is served to file motion to set aside default].) The State Bar filed the petition for disbarment on December 23, 2015. As required by rule 5.85(A), the State Bar reported in the petition that: (1) it has not had any contact with Respondent since his default was entered; (2) Respondent has other disciplinary matters pending in investigation; (3) Respondent has a prior record of discipline; and (4) the Client Security Fund has not made 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 January 26, 2016.

Respondent has been disciplined on two prior occasions. Effective November 18, 2011, Respondent was privately reproved with conditions in State Bar Court case nos. 10-O-09855 (10-O-11215; 11-O-11142; 11-O-12744). In this matter, Respondent stipulated to improperly contracting with four separate clients to limit Respondent's professional malpractice liability, and entering into agreements with three of those clients to withdraw their disciplinary complaints.

Pursuant to a Supreme Court order filed on November 20, 2013, in case no. S213327 (State Bar Court case nos. 12-O-11310 (12-O-13472)), Respondent was suspended for two years, the execution of which was stayed, and he was placed on probation for two years, including a 90-day period of actual suspension. In this matter, Respondent stipulated to failing to promptly release a client's file, improperly collecting advanced fees for mortgage loan modification services, and entering into an agreement with a client to withdraw a disciplinary complaint.

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 and, therefore, violated a statute, rule, or court order that would warrant the imposition of discipline. (Rule 5.85(F)(1)(d).)

Case Nos. 13-O-14121 (13-O-14824; 13-O-15828)

Count One – Respondent willfully violated Business and Professions Code section 6106.3 (violation of Civil Code section 2944.7) by collecting advanced fees prior to completing all services in a loan modification matter.

Count Two – Respondent willfully violated Business and Professions Code section 6106.3 (violation of Civil Code section 2944.7) by collecting advanced fees prior to completing all services in a loan modification matter.

Count Three – Respondent willfully violated rule 4-100(B)(3) of the Rules of Professional Conduct (failing to account) by failing to provide his client with an accounting.

Count Four – Respondent willfully violated Business and Professions Code section 6106.3 (violation of Civil Code section 2944.7) by collecting advanced fees prior to completing all services in a loan modification matter.

Count Five – Respondent willfully violated rule 4-100(B)(3) of the Rules of Professional Conduct (failing to account) by failing to provide his client with an accounting.

Case No. 14-O-00208

Count One – Respondent willfully violated Business and Professions Code section 6106.3 (violation of Civil Code section 2944.7) by collecting advanced fees prior to completing all services in a loan modification matter.

Count Two – Respondent willfully violated rule 4-100(B)(3) of the Rules of Professional Conduct (failing to account) by failing to provide his client with an accounting.

Case Nos. 14-O-01755 (14-O-01799; 14-O-03299; 14-O-03395; 14-O-03732)

Count One – Respondent willfully violated Business and Professions Code section 6106.3 (violation of Civil Code section 2944.7) by demanding and charging advanced fees prior to completing all services in a loan modification matter.

Count Two – Respondent willfully violated Business and Professions Code section 6106.3 (violation of Civil Code section 2944.7) by demanding and charging advanced fees prior to completing all services in a loan modification matter.

Count Three – Respondent willfully violated Business and Professions Code section 6106.3 (violation of Civil Code section 2944.7) by demanding and charging advanced fees prior to completing all services in a loan modification matter.

Count Four – Respondent willfully violated Business and Professions Code section 6106.3 (violation of Civil Code section 2944.7) by demanding and charging advanced fees prior to completing all services in a loan modification matter.

Count Five – Respondent willfully violated Business and Professions Code section 6106.3 (violation of Civil Code section 2944.7) by demanding and charging advanced fees prior to completing all services in a loan modification matter.

Case Nos. 14-O-04976 (14-O-05047; 14-O-06356)

Count One – Respondent willfully violated Business and Professions Code section 6106.3 (violation of Civil Code section 2944.7) by demanding and charging advanced fees prior to completing all services in a loan modification matter.

Count Two – Respondent willfully violated Business and Professions Code section 6106.3 (violation of Civil Code section 2944.7) by demanding and charging advanced fees prior to completing all services in a loan modification matter.

Count Three – Respondent willfully violated Business and Professions Code section 6106.3 (violation of Civil Code section 2944.7) by demanding and charging advanced fees prior to completing all services in a loan modification matter.

Case Nos. 14-O-05337 (14-O-05952; 14-O-06019; 14-O-06064; 14-O-06461)

Count One – Respondent willfully violated Business and Professions Code section 6106.3 (violation of Civil Code section 2944.7) by demanding and charging advanced fees prior to completing all services in a loan modification matter.

Count Two – Respondent willfully violated Business and Professions Code section 6106.3 (violation of Civil Code section 2944.7) by demanding and charging advanced fees prior to completing all services in a loan modification matter.

Count Three – Respondent willfully violated Business and Professions Code section 6106.3 (violation of Civil Code section 2944.7) by demanding and charging advanced fees prior to completing all services in a loan modification matter.

Count Four – Respondent willfully violated Business and Professions Code section 6106 (moral turpitude – misrepresentation) by making statements in writing to the State Bar that Respondent knew or was grossly negligent in not knowing were false.

Count Five – Respondent willfully violated Business and Professions Code section 6106.3 (violation of Civil Code section 2944.7) by demanding and charging advanced fees prior to completing all services in a loan modification matter.

Count Six – Respondent willfully violated Business and Professions Code section 6106 (moral turpitude – misappropriation) by misappropriating for Respondent’s own purposes \$2,865 in entrusted client funds.

Count Seven – Respondent willfully violated rule 4-100(A) of the Rules of Professional Conduct (failure to maintain client funds in trust) by failing to maintain \$2,865 in client funds in a trust account.

Count Eight – Respondent willfully violated Business and Professions Code section 6106 (moral turpitude – NSF checks) by issuing a \$2,895 check when he knew – or was grossly negligent in not knowing – there were insufficient funds to pay the check.

Disbarment is Recommended

Based on the above, the court concludes that the requirements of rule 5.85(F) have been satisfied, and Respondent’s disbarment is recommended. In particular:

- (1) the NDCs were 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 most of the NDCs and appeared for several hearings;
- (3) the default was properly entered under rule 5.81; and
- (4) the factual allegations in the NDCs 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.

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RECOMMENDATION

Disbarment

The court recommends that Respondent John M. Ribarich 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 Noerhayati Sudetjo in the amount of \$2,865 plus 10 percent interest per year from October 30, 2014. Any restitution owed to the Client Security Fund is enforceable as provided in Business and Professions Code section 6140.5, subdivisions (c) and (d).³

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 John M. Ribarich, State Bar number 183883, be involuntarily enrolled as an

³ Based on the limited evidence in the record, it is not clear whether and to what extent restitution is warranted in Respondent's illegal advanced fee matters. Accordingly, this court has not included a recommendation of restitution on those counts.

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: April 12, 2016



YVETTE D. ROLAND
Judge of the State Bar Court

CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); 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 Los Angeles, on April 12, 2016, I deposited a true copy of the following document(s):

DECISION AND ORDER OF INVOLUNTARY INACTIVE ENROLLMENT

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

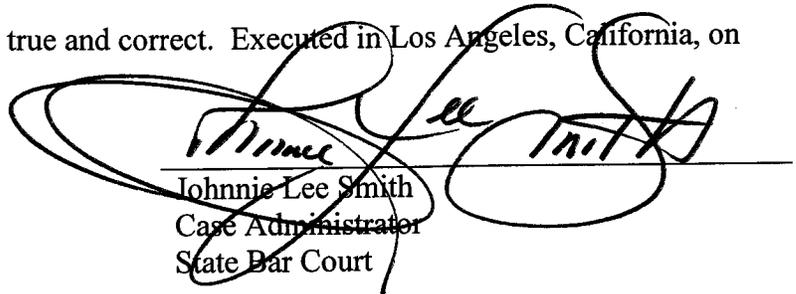
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**JOHN M. RIBARICH
JOHN M. RIBARICH
10573 W PICO BLVD STE 233
LOS ANGELES, CA 90064**

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

MURRAY GREENBERG, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on April 12, 2016.



Johnnie Lee Smith
Case Administrator
State Bar Court