

# PUBLIC MATTER

FILED  
SEP 18 2015 P.B.

STATE BAR COURT  
CLERK'S OFFICE  
LOS ANGELES

## STATE BAR COURT OF CALIFORNIA HEARING DEPARTMENT – LOS ANGELES

In the Matter of	)	Case No.: 14-N-02367-DFM
	)	
<b>JACK ISRAEL ADLER,</b>	)	<b>DECISION AND ORDER OF</b>
	)	<b>INVOLUNTARY INACTIVE</b>
<b>Member No. 97380,</b>	)	<b>ENROLLMENT</b>
	)	
<u>A Member of the State Bar.</u>	)	

Respondent **Jack Israel Adler** (Respondent) was charged with willfully violating California Rules of Court, rule 9.20, by failing to file a declaration of compliance as required by that rule and in conformity with the requirements of rule 9.20(c), as required by an order of the Supreme Court. He failed to participate, either in person or through counsel, and his default was entered. Thereafter, 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.<sup>1</sup>

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

<sup>1</sup> Unless otherwise indicated, all references to rule(s) are to this source.

(NDC) 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.<sup>2</sup>

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**

### **Jurisdiction**

Respondent was admitted to practice law in this state on May 29, 1981, and has been a member since then.

### **Procedural Requirements Have Been Satisfied**

On November 19, 2014, the State Bar filed and properly served the NDC on Respondent by certified mail, return receipt requested, at his membership records address.<sup>3</sup> 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) attempted to reach Respondent by telephone at his membership records telephone number and left a voicemail message for Respondent; (2) sent a letter, dated December 29, 2014, to Respondent by U.S. first-class mail, postage prepaid, at his membership records address, enclosing a copy of the NDC; (3) sent an email to Respondent at the private email address on file with the State Bar, attaching the December 29, 2014 letter and the NDC; (4) sent an email<sup>4</sup> to Respondent at an alternate email address, attaching the December 29, 2014 letter and the NDC; (5) conducted a Lexis person locator search for a possible home

---

<sup>2</sup> 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).)

<sup>3</sup> The NDC was returned by the U. S. Postal Service as unclaimed and unable to be forwarded.

<sup>4</sup> Effective February 1, 2010, all attorneys are required to maintain a current email address to facilitate communications with the State Bar. (Cal. Rules of Court, rule 9.7(a)(2).)

address, cellular and home telephone numbers, and an alternate email address for Respondent; (6) attempted to reach Respondent by telephone at a possible home telephone number obtained in the results of the person locator search; (7) sent a courtesy letter, dated January 8, 2015, enclosing a copy of the NDC, via U. S. first-class mail, postage prepaid, to Respondent at a possible home address revealed by the person locator search; (8) sent an email to Respondent, attaching the January 8, 2015, courtesy letter, at one of two alternate email addresses revealed by the person locator search; (9) sent an email, attaching the January 8, 2015 courtesy letter with a copy of the NDC, to Respondent at the second of two alternate email addresses revealed by the person locator search; and (10) contacted Respondent's assigned probation deputy to ascertain whether the Office of Probation had an alternate telephone number or address for Respondent.

Respondent failed to file a response to the NDC. On January 15, 2015, the State Bar filed and properly served a motion for entry of Respondent's default on Respondent at his membership records address by both certified mail, return receipt requested, and by U.S. first-class mail. The motion complied with all the requirements for a default, including a supporting declaration of reasonable diligence by the State Bar 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 February 10, 2015. The order entering the default was served on Respondent at his membership records address by certified mail, return receipt requested, and by U.S. first-class mail, postage fully prepaid. 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 90 days to file motion to set aside default].) On June 4, 2015, the State Bar filed the petition for disbarment. As required by rule 5.85(A), the State Bar reported in the petition that: (1) on March 10, 2015, the State Bar deputy trial counsel assigned to this matter, Sherell N. McFarlane (DTC McFarlane), received a letter from Respondent, dated March 6, 2015, regarding his request to resign with charges pending and which enclosed a copy of the cover letter and Statement of Resignation that he submitted to the Clerk of the State Bar Court.<sup>5</sup> Thereafter, DTC McFarlane prepared and caused to be filed with this court a report and recommendation regarding Respondent's request to resign with charges pending. The report recommended a rejection of Respondent's resignation with disciplinary charges pending; (2) other than the matter involving Respondent's request to resign with disciplinary charges pending, there are no investigations or other disciplinary charges pending against Respondent; (3) Respondent has two prior records 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 July 6, 2015.

### **Prior Records of Discipline**

Respondent has two prior records of discipline.<sup>6</sup>

Pursuant to an order of the Supreme Court, filed on July 19, 2012, Respondent was suspended for one year, the execution of which was stayed, and placed on probation for two

---

<sup>5</sup> The court notes that Respondent became aware of this State Bar proceeding prior to March 6, 2015, as he referred in his March 6, 2015 letter to then scheduled March 10, 2015 hearing. In his letter, Respondent stated, "As I believe my resignation shall terminate all further proceedings . . . I shall not attend the hearing currently set for March 10, 2015." Despite subsequent acts and notifications by this court, making clear that the action had not been stayed, Respondent apparently elected not to participate in it.

<sup>6</sup> The court admits into evidence the certified copies of Respondent's prior records of discipline attached to the June 4, 2015 petition for disbarment.

years subject to conditions including that he be suspended from the practice of law for 90 days. Respondent stipulated in that matter that he committed an act involving moral turpitude, dishonesty or corruption by appearing before courts when he knew he was not entitled to practice law.

Pursuant to an order of the Supreme Court, filed on December 3, 2013, Respondent was suspended for one year, the execution of which was stayed, and placed on probation for two years subject to conditions including that he be suspended from the practice of law for six months. Respondent stipulated in that matter that he failed to comply with the provisions of a Supreme Court order by not timely filing of declaration of compliance with rule 9.20 in conformity with the requirements of rule 9.20(c) in willful violation of California Rules of Court, rule 9.20. The fact that Respondent had been previously disciplined for failing to comply with rule 9.20 is an especially aggravating factor here.

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

**Case No. 14-N-02367 (Rule 9.20 Matter)**

Respondent willfully violated California Rules of Court, rule 9.20 (duties of disbarred, resigned or suspended attorneys) by not filing, with the clerk of the State Bar Court by February 11, 2014, a declaration of compliance as required by California Rules of Court, rule 9.20 and in conformity with the requirements of rule 9.20(c), as required by Supreme Court order number S213497.

### **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 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;
- (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 and actual notice, 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 **Jack Israel Adler**, State Bar number 97380, 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.

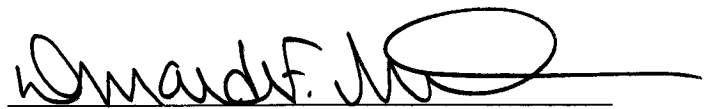
**Costs**

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 **Jack Israel Adler**, State Bar number 97380, 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: September 18, 2015

  
DONALD F. MILES  
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 September 18, 2015, 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:

**JACK ISRAEL ADLER  
24657 CLEAR WATER DR  
MORENO VALLEY, CA 92551**

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

**Sherell N. McFarlane, Enforcement, Los Angeles**

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on September 18, 2015.



Paul Barona  
Case Administrator  
State Bar Court