

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – SAN FRANCISCO

In the Matter of)	Case No.: 14-O-01765-PEM
)	
CHRISTOPHER EINAR GRELL,)	DECISION AND ORDER OF
)	INVOLUNTARY INACTIVE
Member No. 88498,)	ENROLLMENT
)	
<u>A Member of the State Bar.</u>)	

Respondent Christopher Einar Grell (respondent) was charged with two counts of violations of the Business and Professions Code.¹ 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.²

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 (NDC),

¹ Unless otherwise indicated, all further references to section(s) refer to provisions of the Business and Professions Code.

² Unless otherwise indicated, all references to rules are to this source.

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.³

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 November 29, 1979, and has been a member since then.

Procedural Requirements Have Been Satisfied

On June 24, 2014, the State Bar filed and properly served the NDC on respondent by certified mail, return receipt requested, to his membership records address. A courtesy copy of the NDC was served on respondent by certified mail, return receipt requested, to an alternate address at 140 Main Drive, San Rafael, CA 94901, which address was in respondent's case file. The NDC notified respondent that his failure to participate in the proceeding would result in a disbarment recommendation. (Rule 5.41.) The return receipt of the NDC served at the alternate address was returned to the State Bar with an illegible signature.

On July 11, 2014, respondent communicated with the State Bar by telephone. Respondent had asked to participate by telephone at the August 4, 2014 status conference and provided a telephone number to be used. But on August 4, 2014, respondent did not answer the telephone call or appear at the status conference.

To date, respondent has not contacted the State Bar.

³ 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 failed to file a response to the NDC. On August 5, 2014, the State Bar filed and properly served a motion for entry of respondent's default. The motion complied with all the requirements for a default, including a supporting declaration of reasonable diligence by the State Bar senior 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 August 21, 2014. The order entering the default was 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.

Respondent 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 November 26, 2014, the State Bar filed and properly served the petition for disbarment on respondent at his official membership records address. As required by rule 5.85(A), the State Bar reported in the petition that (1) there has been no contact with respondent since his default was entered; (2) there are four other disciplinary investigation matters pending against respondent; (3) respondent has a prior record of discipline; and (4) the Client Security Fund has not made any payments as a result of 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 December 23, 2014.

Respondent has a prior record of discipline.⁴ Pursuant to an order of the State Bar Court filed on June 19, 2006, respondent was publicly reprimanded with conditions for resisting, delaying or obstructing an officer, a misdemeanor. Respondent entered into a stipulation in this prior disciplinary matter.

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(E)(1)(d).)

Case Number 14-O-01765 (Marsh Matter)

Count One - Respondent willfully violated section 6106 (moral turpitude) by dishonestly or grossly negligently misappropriated at least \$163,624.97 of the settlement funds that the client's successor-in-interest of the estate of Florence Marsh, namely Robert Marsh, was entitled to receive.

Count Two - Respondent willfully violated section 6068, subdivision (i) (failing to cooperate/participate in a disciplinary investigation) by not providing a substantive response to the State Bar's April 10, 2014 letter as requested.

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;

⁴ The court admits into evidence the certified copy of respondent's prior record of discipline that was attached to the State Bar's November 26, 2014 petition for disbarment after default.

(2) reasonable diligence was used to notify respondent of the proceedings prior to the entry of his default, as the NDC was served on respondent at his membership records address and at an alternate address and the State Bar communicated with respondent by telephone;

(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 Christopher Einar Grell 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 the Estate of Florence Marsh in the amount of \$163,624.97 plus 10 percent interest per year from October 21, 2013. Any restitution owed to the Client Security Fund is enforceable as provided in Business and Professions Code section 6140.5, subdivisions (c) and (d).

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 Christopher Einar Grell, State Bar number 88498, 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: March _____, 2015

PAT McELROY
Judge of the State Bar Court