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STATE BAR COURT OF CALIFORNIA

STATE BAR COURT CLERK'S OFFICE
SAN FRANCISCO

HEARING DEPARTMENT – LOS ANGELES

In the Matter of)	Case Nos.: 14-O-02257-PEM
)	(14-O-03026; 14-O-03916;
DANIEL PERI LUCID,)	14-O-03934; 14-O-04302;
)	14-O-04444; 14-O-04825)
Member No. 101068,)	
)	DECISION AND ORDER OF
A Member of the State Bar.)	INVOLUNTARY INACTIVE
_____)	ENROLLMENT

Respondent Daniel Peri Lucid (respondent) was charged with 21 counts of violations of the Rules of Professional Conduct and the Business and Professions Code.¹ He failed to appear at the trial of this case 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 appear at trial after receiving adequate notice and opportunity. The rule provides that, if an attorney's default is entered for failing to appear at trial and the attorney fails to have the default set aside or vacated within 45 days, the State Bar will file a petition requesting the court to recommend the attorney's disbarment.³

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.

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(F)(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 California on December 1, 1981, and has been a member since then.

Procedural Requirements Have Been Satisfied

On December 30, 2014, the State Bar properly filed and served a notice of disciplinary charges on respondent and his attorney, Paul J. Virgo. The NDC notified respondent that his failure to appear at the State Bar Court trial would result in a disbarment recommendation. Respondent's attorney filed a response to the NDC on respondent's behalf on February 23, 2015.

At a status conference on February 23, 2015, attended by respondent and the State Bar, the matter was abated. By order filed March 24, 2015, the trial was set to start on June 2, 2015, and the court granted respondent's counsel's motion to withdraw. The March 24, 2015 order setting the trial date was served on respondent's counsel and on respondent at his membership records address by first-class mail, postage paid. (Rule 5.81(A).)

On May 5, 2015, the matter was unabated.

On June 2, 2015, 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 entered respondent's default by order filed June 2, 2015. The order notified respondent that, if he did not timely move to set aside 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), effective three days after service of the order, and he has remained inactively enrolled since that time.

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].)

On August 14, 2015, the State Bar⁴ properly filed and 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 54 other disciplinary matters pending against respondent; (3) respondent has no record of prior discipline; and (4) the Client Security Fund (CSF) has not paid any claims as a result of 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 September 9, 2015.

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).)

1. Case No. 14-O-02257 (Romero/Reynoso Matter)

Count 1 – Respondent willfully violated section 6106.3, subdivision (a), which provides that an attorney's conduct in violation of Civil Code section 2944.7 constitutes cause for the

⁴ Senior Trial Counsel Ashod Mooradian declared in his petition for disbarment that the "State Bar has made numerous attempts to contact Respondent between January 6, 2015 and June 2, 2015, all to no avail. The State Bar has sent an investigator to Respondent's office and home but still Respondent continues to evade any attempt at communication or contact." (Petition for Disbarment, page 6.) The court notes that respondent was represented by counsel, Paul J. Virgo, who had then filed a response on respondent's behalf on February 23, 2015. Attorney Virgo did not withdraw as counsel of record until March 23, 2015. Thus, it would have been improper if the State Bar had attempted to contact respondent directly between February 23 through March 23 when he had counsel.

imposition of discipline. By agreeing to negotiate, attempting to negotiate, and attempting to arrange or perform a mortgage loan modification for a fee for clients, Jose M. Romero and Sonia Reynoso, and thereafter collecting \$3,990 from the clients on September 9, 2013, through November 2013, before respondent had fully performed each and every service respondent had been contracted to perform or represented he would perform, in violation of Civil Code, section 2944.7, subdivision (a)(1), respondent willfully violated section 6106.3, subdivision (a).

Count 2 – Respondent willfully violated rule 1-300(A) of the Rules of Professional Conduct (aiding in the unauthorized practice of law) by allowing his office staff, who are not licensed to practice law in California, to provide legal advice to his clients.

Count 3 – Respondent willfully violated rule 4-100(B)(3) of the Rules of Professional Conduct (failure to render accounts of client funds) by failing to provide an accounting for the legal fees paid to respondent, upon the termination of his employment on April 14, 2014.

2. Case No. 14-O-03026 (Ramos Matter)

Count 4 – Respondent willfully violated section 6106.3, subdivision (a), by agreeing to negotiate, attempting to negotiate, and attempting to arrange or perform a mortgage loan modification for a fee for client, Eleazar Ramos, and thereafter collecting \$4,360 from the client on August 14, 2013, through March 2014, before respondent had fully performed each and every service respondent had been contracted to perform or represented he would perform, in violation of Civil Code, section 2944.7, subdivision (a)(1).

Count 5 – Respondent willfully violated rule 1-300(A) of the Rules of Professional Conduct by allowing his office staff, who are not licensed to practice law in California, to provide legal advice to his client.

Count 6 – Respondent willfully violated rule 4-100(B)(3) of the Rules of Professional Conduct by failing to provide an accounting for the legal fees paid to respondent, upon the termination of his employment on March 25, 2014.

3. Case No. 14-O-03916 (Lazzari Matter)

Count 7 – Respondent willfully violated section 6106.3, subdivision (a), by agreeing to negotiate, attempting to negotiate, and attempting to arrange or perform a mortgage loan modification for a fee for client, Ana Marie Lazzari, and thereafter collecting \$3,000 from the client on March 13, 2014, through April 2014, before respondent had fully performed each and every service respondent had been contracted to perform or represented he would perform, in violation of Civil Code, section 2944.7, subdivision (a)(1).

Count 8 – Respondent willfully violated rule 1-300(A) of the Rules of Professional Conduct by allowing his office staff, who are not licensed to practice law in California, to provide legal advice to his client.

Count 9 – Respondent willfully violated rule 4-100(B)(3) of the Rules of Professional Conduct by failing to provide an accounting for the legal fees paid to respondent, upon the termination of his employment on July 1, 2014.

4. Case No. 14-O-03934 (Bahena Matter)

Count 10 – Respondent willfully violated section 6106.3, subdivision (a), by agreeing to negotiate, attempting to negotiate, and attempting to arrange or perform a mortgage loan modification for a fee for client, Juan Torres Bahena, and thereafter collecting \$2,970 from the client on August 8, 2013, through February 2014, before respondent had fully performed each and every service respondent had been contracted to perform or represented he would perform, in violation of Civil Code, section 2944.7, subdivision (a)(1).

Count 11 – Respondent willfully violated rule 1-300(A) of the Rules of Professional Conduct by allowing his office staff, who are not licensed to practice law in California, to provide legal advice to his client.

Count 12 – Respondent willfully violated rule 4-100(B)(3) of the Rules of Professional Conduct by failing to provide an accounting for the legal fees paid to respondent, upon the termination of his employment on April 1, 2014.

5. Case No. 14-O-04302 (Sandoval Matter)

Count 13 – Respondent willfully violated section 6106.3, subdivision (a), by agreeing to negotiate, attempting to negotiate, and attempting to arrange or perform a mortgage loan modification for a fee for client, Armando Lara Sandoval, and thereafter collecting \$7,510 from the client on October 23, 2013, through July 2014, before respondent had fully performed each and every service respondent had been contracted to perform or represented he would perform, in violation of Civil Code, section 2944.7, subdivision (a)(1).

Count 14 – Respondent willfully violated rule 1-300(A) of the Rules of Professional Conduct by allowing his office staff, who are not licensed to practice law in California, to provide legal advice to his client.

Count 15 – Respondent willfully violated rule 4-100(B)(3) of the Rules of Professional Conduct by failing to provide an accounting for the legal fees paid to respondent, upon the termination of his employment on July 1, 2014.

6. Case No. 14-O-04444 (Barton Matter)

Count 16 – Respondent willfully violated section 6106.3, subdivision (a), by agreeing to negotiate, attempting to negotiate, and attempting to arrange or perform a mortgage loan modification for a fee for client, Doniphan K. Barton, and thereafter collecting \$4,485 from the client on November 1, 2013, through February 2014, before respondent had fully performed each and

every service respondent had been contracted to perform or represented he would perform, in violation of Civil Code, section 2944.7, subdivision (a)(1).

Count 17 – Respondent willfully violated rule 1-300(A) of the Rules of Professional Conduct by allowing his office staff, who are not licensed to practice law in California, to provide legal advice to his client.

Count 18 – Respondent willfully violated rule 4-100(B)(3) of the Rules of Professional Conduct by failing to provide an accounting for the legal fees paid to respondent, upon the termination of his employment on March 1, 2014.

7. Case No. 14-O-04825 (Bennett Matter)

Count 19 – Respondent willfully violated section 6106.3, subdivision (a), by agreeing to negotiate, attempting to negotiate, and attempting to arrange or perform a mortgage loan modification for a fee for client, Dorothy Bennett, and thereafter collecting \$495 from the client in August 2013, through October 9, 2013, before respondent had fully performed each and every service respondent had been contracted to perform or represented he would perform, in violation of Civil Code, section 2944.7, subdivision (a)(1).

Count 20 – Respondent willfully violated rule 1-300(A) of the Rules of Professional Conduct by allowing his office staff, who are not licensed to practice law in California, to provide legal advice to his client.

Count 21 – Respondent willfully violated rule 4-100(B)(3) of the Rules of Professional Conduct by failing to provide an accounting for the legal fees paid to respondent, upon the termination of his employment on October 1, 2014.

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) Respondent had actual notice of this proceeding and had adequate notice of the trial date prior to the entry of his default.

(3) The default was properly entered under rule 5.81.

(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.

(5) Despite adequate notice and opportunity, respondent failed to appear for the trial of this disciplinary proceeding. As set forth in the Rules of Procedure of the State Bar, the court recommends his disbarment.

RECOMMENDATIONS

Disbarment

The court recommends that respondent **Daniel Peri Lucid**, State Bar number 101068, 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 following payees:

- (1) Jose M. Romero and Sonia Reynoso in the amount of \$3,990 plus 10 percent interest per year from April 14, 2014;
- (2) Eleazar Ramos in the amount of \$4,360 plus 10 percent interest per year from March 25, 2014;
- (3) Ana Marie Lazzari in the amount of \$3,000 plus 10 percent interest per year from July 1, 2014;
- (4) Juan Torres Bahena in the amount of \$2,970 plus 10 percent interest per year from April 1, 2014;

- (5) Armando Lara Sandoval in the amount of \$7,510 plus 10 percent interest per year from July 1, 2014;
- (6) Doniphan K. Barton in the amount of \$4,485 plus 10 percent interest per year from March 1, 2014; and
- (7) Dorothy Bennett in the amount of \$495 plus 10 percent interest per year from October 9, 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.

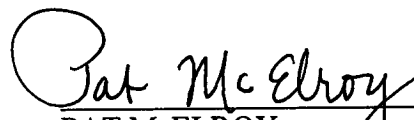
Costs

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 Daniel Peri Lucid, State Bar number 101068, 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: November 20, 2015


PAT McELROY
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 San Francisco, on November 20, 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 San Francisco, California, addressed as follows:

DANIEL PERI LUCID
LUCID LAW
8484 WILSHIRE BLVD STE 515
BEVERLY HILLS, CA 90211

- by certified mail, No. , with return receipt requested, through the United States Postal Service at , California, addressed as follows:

- by overnight mail at , California, addressed as follows:

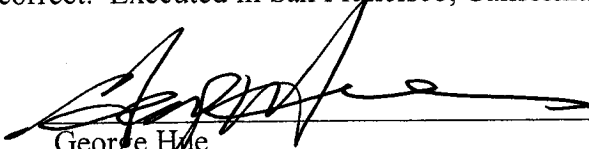
- by fax transmission, at fax number . No error was reported by the fax machine that I used.

- By personal service by leaving the documents in a sealed envelope or package clearly labeled to identify the attorney being served with a receptionist or a person having charge of the attorney's office, addressed as follows:

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

Ashod Mooradian, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on November 20, 2015.


George Hye
Case Administrator
State Bar Court