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**STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – SAN FRANCISCO**

In the Matter of)	Case No.: 14-O-02716-LMA
)	
DANIEL ROBERT MILLER,)	ORDER DENYING PETITION FOR
)	DISBARMENT, VACATING DEFAULT,
)	TERMINATING INACTIVE ENROLLMENT,
)	AND GRANTING LEAVE TO FILE AN
Member No. 109634,)	AMENDED MOTION FOR ENTRY OF
)	DEFAULT
)	
<u>A Member of the State Bar.</u>)	

This matter is before the court on the State Bar's Office of the Chief Trial Counsel's July 27, 2015, petition for disbarment after default for failure to file a timely response to the notice of disciplinary charges. (Rule 5.85.)¹ Respondent Daniel Robert Miller did not file a response to the petition for disbarment.

The State Bar Court may grant a petition for disbarment only upon proof of the following four factors: (1) that the notice of disciplinary charges (NDC) was properly served on the respondent; (2) that the respondent had actual notice of the proceeding before the entry of the respondent's default or that the State Bar used reasonable diligence to notify respondent of the proceeding before the entry of the default; (3) that the respondent's default was entered properly; and (4) that the factual allegations in the NDC deemed admitted by the respondent's default support a finding of disciplinable misconduct. (Rule 5.85(F)(2).)

¹ All references to rules are to the Rules of Procedure of the State Bar.

In the present proceeding, the evidence does not show that respondent's default was entered properly, as the motion for entry of respondent's default was not served on respondent at his membership records address as required by rules 5.80(c) and 5.25. Thus, the record fails to establish that respondent's default was properly entered. (Rule 5.85(F)(1)(c).) Therefore, the court must, inter alia, deny the petition for disbarment and vacate respondent's default. (Rule 5.85(F)(2).)

The court also notes that the petition for disbarment was not properly served on respondent as well, as it was also not served on respondent at his membership records address as required by rules 5.85(D) and 5.25.²

ORDER

The court orders that the State Bar's July 27, 2015, petition for disbarment after default for failure to file a timely response is DENIED and that the entry of respondent Daniel Robert Miller's default on April 20, 2015, is VACATED nunc pro tunc to April 20, 2015. (Rule 5.85(F)(2).)

The court further orders that respondent Daniel Robert Miller's involuntary inactive enrollment under the court's April 20, 2015, order is TERMINATED nunc pro tunc to April 20, 2015.³

Finally, the court orders that, within 20 days after the service of this order, the State Bar may file and serve an amended motion for entry of default that strictly complies with rule 5.80.

² The motion for entry of respondent's default and the petition for disbarment were served on respondent at P.O. Box 281, Half Moon Bay, CA 94109-0281, rather than his membership records address which is P.O. Box 281, Half Moon Bay, CA 94019 0281.

³ This order does not affect respondent's ineligibility to practice law that may hereafter result from any other cause.

Respondent, of course, may immediately file a response to the notice of disciplinary charges.

(See rules 5.42, 5.43.)⁴

Dated: October 29 2015.



LUCY ARMENDARIZ
Judge of the State Bar Court

⁴ See also *In the Matter of Navarro* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 192, 198, fn. 5 [“The time limit for filing [a response] to the notice [of disciplinary charges] is not jurisdictional, and [a response] will be accepted for filing at any time prior to the actual entry of default, no matter how belatedly it is submitted. (Citation.)”].)

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 October 29, 2015, I deposited a true copy of the following document(s):

ORDER DENYING PETITION FOR DISBARMENT, VACATING DEFAULT,
TERMINATING INACTIVE ENROLLMENT, AND GRANTING LEAVE TO
FILE AN AMENDED MOTION FOR ENTRY OF DEFAULT

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:

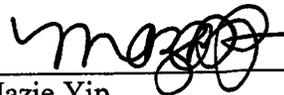
DANIEL ROBERT MILLER
P O BOX 281
HALF MOON BAY, CA 94019 - 0281

DANIEL ROBERT MILLER
795 MAIN STREET
HALF MOON BAY, CA 94019

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

ERICA L.M. DENNINGS, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on October 29, 2015.



Mazie Yip
Case Administrator
State Bar Court