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

In the Matter of)	Case No.: 14-O-03143 YDR
)	
JON B. RUBINFIER,)	DECISION AND ORDER OF
)	INVOLUNTARY INACTIVE
Member No. 94525,)	ENROLLMENT
)	
<u>A Member of the State Bar.</u>)	

Jon Bennett Rubinfier (“Respondent”) was charged with four counts of misconduct. He has failed to participate either in person or through counsel, since his default was entered. On August 10, 2015, 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.¹

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”) 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.²

¹ Unless otherwise indicated, all references to rules are to this source.

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).)



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 December 16, 1980, and has been a member since that date.

Procedural Requirements Have Been Satisfied

On December 22, 2014, the State Bar filed and properly served the NDC on Respondent by certified mail, return receipt requested, at his membership records address. 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 took additional steps to notify Respondent of these proceedings. The Deputy Trial Counsel (DTC) assigned to this matter has: (1) called Respondent and spoken with him several times regarding these disciplinary proceedings; (2) sent a letter notifying Respondent he was in default and advised Respondent of the March 16, 2015, status conference; and (3) sent an email to Respondent on February 24, 2015, attaching a copy of the NDC.

Despite the State Bar's efforts, Respondent failed to file a response to the NDC.³ On April 22, 2015, the State Bar filed and properly served a motion for entry of Respondent's default on Respondent at his membership records address. The motion complied with all of the requirements for a default, including a supporting declaration of reasonable diligence by the

³ Respondent appeared in person at a status conference held in the above-captioned matter on March 16, 2015. The court reminded Respondent that his NDC response was due January 16, 2015. Respondent stated he would file his response to the NDC no later than March 23, 2015. Although Respondent subsequently appeared telephonically at an April 15, 2015, voluntary status conference, Respondent never filed a response.

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 May 8, 2015. 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 August 10, 2015, the State Bar properly filed and by certified mail, 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 no other investigative matters pending against Respondent; (3) Respondent has no prior disciplinary record; and (4) the Client Security Fund has not paid any claims as a result of Respondent's misconduct.

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-O-3143 (The Parada Matter)

Count One – Respondent willfully violated Business and Professions Code section 6103, (failure to obey a court order), by failing to obey a disbursement court order which required Respondent to deposit certain funds in his attorney trust account and then to distribute funds to his client.

Count Two – Respondent willfully violated Business and Professions Code section 6106, (moral turpitude - misappropriation), by dishonestly or grossly negligently misappropriating for Respondent's own purposes, at least \$15,175.87 that his client was entitled to receive.

Count Three – Respondent willfully violated Rules of Professional Conduct, rule 4-100 (B)(3) (failure to render accounting of client funds) by failing to render an accounting of funds after his client's September 2012 request for an accounting.

Count Four – Respondent willfully violated Rules of Professional Conduct, rule 4-100 (B)(4) (failure to pay client's funds promptly) by failing to promptly distribute to his client, funds in the amount of at least \$15,175.87, as requested.

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 notice and opportunity, Respondent failed to participate in this disciplinary proceeding after his default was entered. As set forth in the Rules of Procedure of the State Bar, the court recommends disbarment.

RECOMMENDATION

Disbarment

The court recommends that Respondent **JON BENNETT RUBINIER**, State Bar number 94525, 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 Nohemy Parada in the amount of \$15,175.87 plus 10 percent interest per year from April 29, 2011. 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 **Jon Bennett Rubinfier**, State Bar number 94525, 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: December 9, 2015


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 December 9, 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:

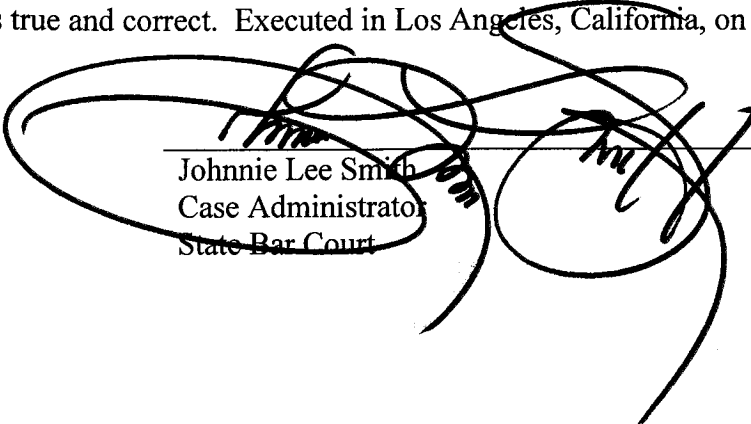
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**JON BENNETT RUBINFIER
15303 VENTURA BLVD
9TH FL
SHERMAN OAKS, CA 91403**

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

ROSS VISELMAN, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on December 9, 2015.



Johnnie Lee Smith
Case Administrator
State Bar Court