

**PUBLIC MATTER**

**FILED**

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SEP - 3 2015

**STATE BAR COURT OF CALIFORNIA**

STATE BAR COURT CLERK'S OFFICE  
SAN FRANCISCO

**HEARING DEPARTMENT – SAN FRANCISCO**

In the Matter of	)	Case Nos.: 14-O-03244-LMA (14-O-03493;
	)	14-O-00585; 14-O-03153;
<b>KEITH ROBERT OLIVER,</b>	)	14-O-03666)
	)	
<b>Member No. 257837,</b>	)	<b>DECISION AND ORDER OF</b>
	)	<b>INVOLUNTARY INACTIVE</b>
A Member of the State Bar.	)	<b>ENROLLMENT</b>
_____	)	

Respondent **Keith Robert Oliver** (respondent) was charged with 19 counts of violations of the Rules of Professional Conduct and the Business and Professions Code.<sup>1</sup> 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.<sup>2</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

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

<sup>2</sup> Unless otherwise indicated, all references to rules 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>3</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**

Respondent was admitted to practice law in California on December 1, 2008, and has been a member since then.

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

On December 29, 2014, the State Bar properly filed and served the NDC on respondent by certified mail, return receipt requested, to his membership records address. The return card was returned to the State Bar. The NDC notified respondent that his failure to participate in the proceeding would result in a disbarment recommendation. (Rule 5.41.) On December 29, 2014, the State Bar also sent respondent a courtesy copy of the NDC by regular first-class mail to respondent's official membership records address. It was not returned as undeliverable.

On January 28, 2015, the State Bar attempted to leave a message at respondent's official membership records telephone number, but the voicemail was full. The State Bar also attempted to call respondent at two additional possible telephone numbers but they were disconnected. On January 28, 2015, the State Bar sent respondent an email with a copy of the NDC attached. But the email bounced back. On the same day, the State Bar faxed a copy of the NDC and informed him that a motion seeking entry of his default would be filed if he did not file a response to the NDC within the next 24 hours. To date, respondent has not contacted the State Bar.

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<sup>3</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).)

Respondent failed to file a response to the NDC. On January 30, 2015, the State Bar properly filed and 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 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 18, 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 May 27, 2015, the State Bar 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 three abated investigation matters pending against respondent; (3) respondent has no record of prior discipline; and (4) the Client Security Fund has not paid any claims as a result of respondent's misconduct, but there are two claims pending against respondent.

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 June 23, 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).)

### **Case Number 14-O-03244 (Dallas Matter)**

Count 1 – Respondent willfully violated section 6106 (moral turpitude) by making a misrepresentation to the U.S. Bankruptcy Court on July 8, 2011, that he had received no compensation from the debtor when he knew the statement was false.

Count 2 – Respondent willfully violated section 6068, subdivision (d) (seeking to mislead a judge), by stating to the appellate court that there was no related bankruptcy case that would affect the appeal when he knew the statement was false in *Dallas v. Deutsche Bank*, Third Appellate District, case No. C070174 (appellate matter).

Count 3 – Respondent willfully violated rule 3-110(A) of the Rules of Professional Conduct (failure to perform legal services with competence) by filing an incomplete bankruptcy petition, by failing to comply with a scheduling order, and by failing to timely file an opening brief on behalf of his client, Paul Dallas.

Count 4 – Respondent willfully violated rule 3-700(A)(2) of the Rules of Professional Conduct (improper withdrawal from employment) by failing to inform his client that he was withdrawing from employment and by failing to take reasonable steps to avoid reasonably foreseeable prejudice to the rights of his client when he constructively terminated his employment on April 9, 2014.

Count 5 – Respondent willfully violated section 6068, subdivision (m) (failure to respond to reasonable client status inquiries and to inform client of significant development), by failing to inform his client that the motion to reconsider in the bankruptcy matter was denied and that the appellate matter was dismissed.

Count 6 – Respondent willfully violated section 6068, subdivision (i) (failure to cooperate with the State Bar in a disciplinary investigation), by failing to provide a substantive response to the State Bar’s July 30, 2014 letter.

**Case Number 14-O-03493 (Fobbs Matter)**

Count 7 – Respondent willfully violated rule 3-110(A) of the Rules of Professional Conduct by failing to appear at a case management conference and by failing to respond to a motion for judgment on the pleadings on behalf of his client, Michael Fobbs, in *Michael Fobbs v. Issa Aryanpure*, Contra Costa County Superior Court, case No. C11-02511.

Count 8 – Respondent willfully violated rule 3-700(A)(2) of the Rules of Professional Conduct by failing to inform his client that he was withdrawing from employment and by failing to take reasonable steps to avoid reasonably foreseeable prejudice to the rights of his client when he constructively terminated his employment on December 16, 2013.

Count 9 – Respondent willfully violated section 6068, subdivision (m), by failing to inform his client that his case had been dismissed in March 2014.

Count 10 – Respondent willfully violated section 6068, subdivision (i), by failing to provide a substantive response to the State Bar’s June 24 and July 8, 2014 letters.

**Case Number 14-O-00585 (Emmons Matter)**

Count 11 – Respondent willfully violated rule 3-110(A) of the Rules of Professional Conduct by failing to perform with competence on behalf of his client, Anastasia Emmons, by

failing to respond to demurrers and by failing to file case management statements in *Anastasia Emmons v. Seterius, Inc. et al.*, case No. CGC-13-533487.

Count 12 – Respondent willfully violated rule 3-700(A)(2) of the Rules of Professional Conduct by failing to inform his client that he was withdrawing from employment and by failing to take reasonable steps to avoid reasonably foreseeable prejudice to the rights of his client when he constructively terminated his employment on November 22, 2013.

Count 13 – Respondent willfully violated section 6068, subdivision (i), by failing to provide a substantive response to the State Bar’s March 5 and April 7, 2014 letters.

**Case Number 14-O-03153 (Judicial Sanctions Matter)**

Count 14 – Respondent willfully violated section 6103 (failure to comply with court order) by failing to comply with a sanctions order in *County of Alameda v. Thompson*, Alameda County Superior Court, case No. RG-12644089.

Count 15 – Respondent willfully violated section 6068, subdivision (o)(3) (failure to report judicial sanctions), by failing to report the \$1,000 court sanctions ordered by the Alameda County Superior Court.

Count 16 – Respondent willfully violated section 6068, subdivision (i), by failing to provide a substantive response to the State Bar’s June 6 and 26, 2014 letters.

**Case Number 14-O-03666 (Judicial Sanctions Matter)**

Count 17 – Respondent willfully violated section 6103 by failing to comply with a sanctions order in *Raj Singh et al. v. Stephen Lipworth*, Court of Appeal, Third Appellate District, case No. C073177 (appellate matter).

Count 18 – Respondent willfully violated section 6068, subdivision (o)(3), by failing to report the \$14,978 sanctions ordered by the court in the appellate matter.

Count 19 – Respondent willfully violated section 6068, subdivision (i), by failing to provide a substantive response to the State Bar’s August 13, 2014 letter.

**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. As set forth in the Rules of Procedure of the State Bar, the court recommends his disbarment.

**RECOMMENDATION**

**Disbarment**

The court recommends that respondent **Keith Robert Oliver**, State Bar number 257837, 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 **Keith Robert Oliver**, State Bar number 257837, 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 3, 2015

  
\_\_\_\_\_  
LUCY ARMENDARIZ  
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 September 3, 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:

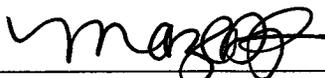
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

KEITH R. OLIVER  
450 HARRISON ST STE 200  
SAN FRANCISCO, CA 94105

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

HEATHER ABELSON, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on September 3, 2015.

  
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Mazie Yip  
Case Administrator  
State Bar Court