

PUBLIC MATTER

FILED

SEP 22 2015

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

STATE BAR COURT CLERK'S OFFICE
SAN FRANCISCO

In the Matter of)	Case No.: 14-O-03291-LMA
)	
JACOB DONG HUN CHANG,)	DECISION AND ORDER OF
)	INVOLUNTARY INACTIVE
Member No. 174476,)	ENROLLMENT
)	
A Member of the State Bar.)	
_____)	

In this matter, respondent Jacob Dong Hun Chang was charged with four counts of misconduct stemming from a single client matter. He failed to appear at the trial of this case and his default was entered. The Office of the Chief Trial Counsel of the State Bar of California (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 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.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

Respondent was admitted to practice law in this state on December 12, 1994, and has been a member since then.

Procedural Requirements Have Been Satisfied

On February 4, 2015, the State Bar filed and properly served a notice of disciplinary charges (NDC) on Respondent at his membership records address by certified mail, return receipt requested. The NDC notified Respondent that his failure to appear at the State Bar Court trial would result in a disbarment recommendation. (Rule 5.41.) On March 2, 2015, Respondent failed to appear in court for the initial status conference. On March 9, 2015, Respondent filed his response to the NDC.

By order filed March 16, 2015, trial was set to begin on June 2, 2015. The order setting the trial date was properly served on Respondent. (Rule 5.81(A).)

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 issued and properly served an order entering Respondent's default that same day. The order notified Respondent that if he did not timely move to set aside or vacate 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), and he has remained inactive 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 4, 2015, the State Bar filed the petition for disbarment. As required by rule 5.85(A),

the State Bar reported in the petition that: (1) it has not had any direct contact with Respondent since his default was entered, however, an attorney contacted the State Bar on June 24, 2015, stating that he had been retained to set aside the default;³ (2) Respondent has other disciplinary matters pending in investigation; (3) Respondent has a prior record of discipline; and (4) the Client Security Fund has not made any payments resulting from 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 1, 2015.

Respondent has been disciplined on two prior occasions.⁴ Pursuant to a Supreme Court order filed on May 19, 2011, Respondent was suspended for two years, the execution of which was stayed, and he was placed on probation for two years, including a suspension of 60 days. In this matter, Respondent stipulated to misconduct in seven matters, including failing to: obey court orders; report sanctions; pay out client funds; cooperate in a disciplinary investigation; competently perform legal services (three counts); refund unearned fees; and promptly respond to reasonable status inquiries (four counts).

On May 18, 2015, this court issued a decision in case nos. 11-O-10368, et al., recommending that Respondent be suspended for two years, stayed, and that he be placed on probation for two years, including a nine-month period of actual suspension.⁵ In this matter, Respondent stipulated to misconduct in four matters, including: failing to competently perform legal services (two counts); engaging in acts of moral turpitude by making misrepresentations to his clients; failing to refund unearned fees (three counts); failing to account (two counts); failing

³ Despite this communication, no motion to set aside the default was subsequently filed.

⁴ The latter of these two disciplines has been recommended to the Supreme Court of California, but has yet to be approved. (See rule 5.106(A).)

⁵ Should this recommended discipline be dismissed or modified, this court's recommendation of disbarment in the present matter remains unchanged. (See rule 5.106(E).)

to promptly release a client's file; failing to cooperate in a disciplinary investigation; and failing to promptly respond to reasonable status inquiries (two counts).

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, except as otherwise noted, 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-03291 (The Paredes Matter)

Count One – Respondent willfully violated rule 4-100(A) of the Rules of Professional Conduct (failure to deposit client funds in trust) by failing to deposit client funds in a trust account.

Count Two – the court does not find Respondent culpable of willfully violating Business and Professions Code section 6103 (failure to obey a court order), as there is no clear and convincing evidence that Respondent had knowledge of the superior court's order. (See *In the Matter of Maloney and Virsik* (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 774, 787 [knowledge is an essential element to establishing a failure to obey court order].)

Count Three – Respondent willfully violated Business and Professions Code section 6106 (moral turpitude – NSF checks) by issuing a \$3,724 check when he knew – or was grossly negligent in not knowing – there were insufficient funds to pay the check.

Count Four – Respondent willfully violated Business and Professions Code section 6068, subdivision (i) (failure to cooperate with a State Bar investigation), by receiving and failing to substantively respond to a State Bar investigator's letters seeking a response regarding allegations of misconduct.

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 the proceedings prior to the entry of his default, as he filed a response to the NDC and was properly served with notice of the trial date;
- (3) the default was properly entered under rule 5.81; and
- (4) the factual allegations in the NDC deemed admitted by the entry of default support a finding that Respondent violated a statute, rule, or court order that would warrant the imposition of discipline.

Despite actual notice and opportunity, Respondent failed to appear for the trial 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 Jacob Dong Hun Chang 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.

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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 Jacob Dong Hun Chang, State Bar number 174476, 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 22, 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 22, 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:

JACOB D. CHANG
13654 VICTORY BLVD STE 648
VAN NUYS, CA 91401

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

HUGH G. RADIGAN, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on September 22, 2015.



Mazie Yip
Case Administrator
State Bar Court