

PUBLIC MATTER

FILED

NOV - 4 2015

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – SAN FRANCISCO

STATE BAR COURT CLERK'S OFFICE
SAN FRANCISCO

In the Matter of)	Case No.: 14-O-03491-LMA
)	
JAMES JOSEPH LYNCH, JR.,)	DECISION AND ORDER OF
)	INVOLUNTARY INACTIVE
Member No. 85805)	ENROLLMENT
A Member of the State Bar.)	
_____)	

In this matter, respondent James Joseph Lynch, Jr. (Respondent) was charged with two counts of misconduct. Respondent failed to participate either in person or through counsel, 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 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

Respondent was admitted to practice law in this state on May 31, 1979, and has been a member since then.

Procedural Requirements Have Been Satisfied

On December 17, 2014, the State Bar properly filed and served an NDC on Respondent by UPS International Delivery (with UPS Tracking Detail) at his membership records address.³ The NDC notified Respondent that his failure to participate in the proceedings would result in a disbarment recommendation. (Rule 5.41.) The NDC was not returned to the State Bar by UPS as undeliverable or for any other reason. On February 2, 2015, the State Bar filed and properly served a motion for entry of Respondent's default.

In addition, Respondent had actual notice of this proceeding. Following the State Bar's filing of its motion for entry of default, the State Bar filed three supplemental declarations documenting its email correspondence with Respondent between February 8th and 27th, 2015. During their email exchanges, the State Bar advised Respondent on more than one occasion that he needed to file with this court a response to the NDC or a response to the default motion.

Respondent subsequently failed to file a response to the NDC. Respondent also did not file a response to the default motion, and his default was entered on April 2, 2015. The order entering the default was served on Respondent at his membership records address by registered

³ Respondent's membership records address is in the Philippines. The State Bar's declaration contained in its default motion states, under penalty of perjury, that the NDC was served on Respondent at his membership records address via UPS International Delivery (with UPS Tracking Detail). The court notes, however, that the proof of service on the NDC contains what appears to be a typographical error, indicating that the NDC was served by U.S. Certified Mail.

mail, return receipt for international mail 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, and he has remained inactively enrolled since that time.

Respondent also 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 July 30, 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 had no contact with Respondent since the default was entered; (2) Respondent has no other disciplinary matters pending; (3) Respondent has no prior record of discipline; and (4) the Client Security Fund has not made any payments resulting from Respondent's conduct. Respondent did not respond to the petition for disbarment or move to set aside or vacate the default. The case was submitted for decision on September 22, 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-03491 – The *Martin v. Cristodore* Matter

Count One – Respondent willfully violated Business and Professions Code section 6103 (failure to obey a court order) by failing to comply with a December 13, 2013 sanction order in *Martin v. Cristodore*, Sacramento Superior Court case no. 06AS00279.

Count Two – Respondent willfully violated Business and Professions Code section 6068, subdivision (o)(3) (failure to report judicial sanctions) by failing to timely report to the State Bar judicial sanctions against Respondent in the amount of \$4,041.50.

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 communicated with the State Bar regarding the present proceedings;
- (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 actual 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 disbarment.

RECOMMENDATIONS

Disbarment

The court recommends that respondent James Joseph Lynch, Jr., 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 James Joseph Lynch, Jr., State Bar number 85805, 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 4, 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 November 4, 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:

JAMES JOSEPH LYNCH, JR.
ATTORNEY AT LAW
1108C, 2 SERENDRA
FORT BONIFACIO
GLOBAL CITY, TAGUIG, PHILIPPINES

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

SUSAN CHAN, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on November 4, 2015.



Mazie Yip
Case Administrator
State Bar Court