



PUBLIC MATTER

FILED

OCT 07 2015

**STATE BAR COURT CLERK'S OFFICE
SAN FRANCISCO**

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

In the Matter of)	Case No.: 14-O-03800-PEM
)	
STEVEN JAY BROCK,)	
)	DECISION AND ORDER OF
Member No. 241870,)	INVOLUNTARY INACTIVE
)	ENROLLMENT
<u>A Member of the State Bar.</u>)	

In this matter, respondent Steven Jay Brock was charged with six counts of misconduct stemming from a single client matter. 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 February 19, 2006, and has been a member since then.

Procedural Requirements Have Been Satisfied

On December 5, 2014, the State Bar properly filed and served an 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.) The State Bar stated in its Memorandum of Points and Authorities submitted in support of its motion for entry of default, filed on March 20, 2015, that the “NDC was returned as ‘Unclaimed-Unable to Forward’ on January 31, 2015.”³

In addition, reasonable diligence was used to notify respondent of this proceeding. The State Bar, without success, attempted to contact respondent via various methods. On January 16, 2015, prior to the return to the State Bar by the postal service of the December 5, 2014 NDC, the State Bar had sent a letter to respondent, which included a courtesy copy of the NDC. The January 16, 2015 letter advised respondent that his response to the NDC was overdue and informed him that if he did not file a response to the NDC by January 30, 2015, a motion for his default would be filed by the State Bar. The letter also invited respondent to call the deputy trial counsel assigned to his matter (the DTC); and, it provided respondent with that DTC’s direct

³ Rule 5.80(B)(1) requires that a motion for entry of default be supported by a declaration stating whether the signed return receipt for the NDC was received from the member. While the State Bar filed a declaration in support of its motion for entry of default, it did not satisfy the rule 5.80(B)(1) requirement. The declaration failed to state whether a return receipt card for the NDC had been received from the member. However, as noted, *ante*, the actual motion did state that the NDC was returned to the State Bar and received on January 31, 2015, as unclaimed.

phone number. That January 16, 2015 letter from the DTC and the copy of the NDC were sent to respondent at his membership records address via regular U.S. mail. Additionally, on January 16, 2015, the letter and the NDC were sent via facsimile and email to respondent at the fax number and email address found in his membership records information.

On March 13, 2015, the DTC telephoned respondent at his membership records telephone number. The DTC identified himself as calling from the State Bar and asked the phone receptionist, who had answered the phone, to connect him with respondent. The receptionist, who stated that she would see if respondent was available, asked the DTC for the spelling of his name and then appeared to leave the line. When she returned, the receptionist informed the DTC that respondent would return his phone call. The DTC then confirmed with the receptionist that respondent's membership records address was in fact still current; he also provided the receptionist with his telephone number. In his declaration, submitted in support of the motion for entry of default, which was executed on March 18, 2015, the DTC attested to the fact that he had not received a response to any of the messages, which he left for respondent.

Respondent failed to file a response to the NDC. On March 19, 2015, the State Bar properly served the motion for entry of respondent's default. That motion was filed in the State Bar Court on March 20, 2019. Except for the fact that the supporting declaration failed to state whether a return receipt for the NDC, signed by respondent, had been received by the State Bar, the motion complied with all the requirements for a default, including a supporting declaration of reasonable diligence by the deputy trial counsel, declaring the additional steps that the State Bar had 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 April 7, 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, and respondent 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 July 13, 2015, the State Bar properly served a petition for disbarment on respondent at his membership-records address by certified mail, return receipt requested. On July 15, 2015, the State Bar filed the petition for disbarment. The State Bar reported in the petition that (1) it had no contact with respondent since his default was entered on April 7, 2015; (2) there are three other disciplinary matters pending against respondent; (3) respondent has no prior record of discipline; and (4) the Client Security Fund has not made any payments due to 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 August 11, 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 No. 14-O-03800 (The Morris Matter)

Count One – respondent, willfully violated rule 3-110(A) of the Rules of Professional Conduct (failure to competently perform) after being retained to defend Penelope Morris (Morris) in a civil action (which she anticipated would be filed against her by her former

employer) by: (1) not responding to discovery requests on March 21, April 8, and May 6, 2013, in the civil matter, which was filed against Morris by her former employer as anticipated, and which was entitled *Delphi Connection Systems, LLC v. Penelope Morris* (the *Delphi Action*); (2) not responding to the plaintiff's motions to compel discovery responses, which motions had been served on him in the *Delphi Action*; (3) not responding to the plaintiff's motion for terminating sanctions in the *Delphi Action*; and (4) not returning an executed substitution of attorney form to Morris's new attorney.

Count Two – respondent willfully violated section 6068, subdivision (m) (failure to communicate) when he did not keep his client, Morris, informed of significant developments in the matter in which he had agreed to provide legal services by failing to inform her that: (1) on March 21, April 8, and May 6, 2013, discovery requests had been served by the plaintiff in the *Delphi Action*; (2) on June 21, 2013, the plaintiff in the *Delphi Action* had filed motions to compel discovery responses; (3) on October 15, 2013, the plaintiff had filed a motion for terminating sanctions in the *Delphi Action*; (4) on February 6, 2014, a judgment had been entered against Morris in the *Delphi Action*; and (5) on May 5, 2014, a writ of execution had been issued, allowing the plaintiff in the *Delphi Action* to place a levy on Morris's bank account.

Count Three – respondent willfully violated rule 3-700(A)(2) of the Rules of Professional Conduct (improper withdrawal from employment) when on April 4, 2013, after having filed an answer to the complaint in the *Delphi Action*, he constructively terminated his employment by failing to take any further action on Morris's behalf and failing to inform her that he had withdrawn from employment.

Count Four – respondent, whose employment had terminated on April 4, 2013, willfully violated rule 3-700(D)(1) of the Rules of Professional Conduct (failure to release file) by failing

to promptly release the client papers and property to Morris, despite her June 6, 2014 request that he provide her with her file.

Count Five - respondent willfully violated rule 4-100(B)(3) of the Rules of Professional Conduct (failure to render accounts of client funds) by failing to provide an appropriate accounting to the client for the \$3,500 in advanced legal fees, which he had received from her for legal services to be performed.

Count Six – respondent willfully violated section 6068, subdivision (i), by failing to provide substantive responses to the State Bar’s letter, which had been sent to and received by respondent, and which requested respondent’s response to the allegations of misconduct being investigated in case No. 14-O-03800.

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 disbarment.

RECOMMENDATIONS

Disbarment

The court recommends that respondent Steven Jay Brock 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.

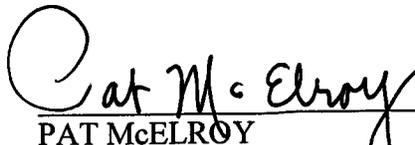
Costs

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 Steven Jay Brock, State Bar number 241870, 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: October 1, 2015


PAT McELROY
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 October 7, 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:

STEVEN J. BROCK
LAW OFFICES STEVEN JAY BROCK, INC,
APLC
14071 PEYTON DR UNIT 430
CHINO HILLS, CA 91709

- by certified mail, No. , with return receipt requested, through the United States Postal Service at , California, addressed as follows:

- by overnight mail at , California, addressed as follows:

- by fax transmission, at fax number . No error was reported by the fax machine that I used.

- By personal service by leaving the documents in a sealed envelope or package clearly labeled to identify the attorney being served with a receptionist or a person having charge of the attorney's office, addressed as follows:

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

Timothy G. Byer, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on October 7, 2015.


George Hue
Case Administrator
State Bar Court