

# PUBLIC MATTER

FILED

JAN 26 2016

STATE BAR COURT OF CALIFORNIA  
STATE BAR COURT CLERK'S OFFICE  
SAN FRANCISCO  
HEARING DEPARTMENT – SAN FRANCISCO

In the Matter of )  
 )  
PATRICK DEAN HOLSTINE, )  
 )  
Member No. 253292, )  
 )  
A Member of the State Bar. )  
 )  
\_\_\_\_\_ )

Case No.: 14-O-04095-PEM

**DECISION AND ORDER OF  
INVOLUNTARY INACTIVE  
ENROLLMENT**

Respondent Patrick Dean Holstine (respondent) was charged with nine 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 3, 2007, and has been a member since then.

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

On April 28, 2015, the State Bar properly filed and served the NDC on respondent by certified mail, return receipt requested, to 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 mailing was returned as undeliverable. A courtesy copy of the NDC was also sent to respondent by regular first class mail to his membership records address. The mailing was not returned.

On May 4, 2015, the State Bar sent respondent an email, informing him that a motion seeking entry of his default would be filed if he did not respond to the NDC. On May 28, the State Bar attempted to telephone respondent at his official membership records telephone number but the number was not in service.

Respondent failed to file a response to the NDC. On May 29, 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

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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).)

the State Bar senior 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.

On May 29, the State Bar again sent respondent an email, informing him that a motion for entry of his default had been filed. On June 6, 2015, respondent telephoned Senior Trial Counsel Robin Brune, acknowledged receipt of her May 29 email, and requested additional time to file a response to the motion for default. The State Bar declined to stipulate to an extension. Thereafter, respondent did not further contact the State Bar.

Respondent did not file a response to the motion, and his default was entered on June 16, 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 October 7, 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 two investigations 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.

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 November 3, 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-04095 (Tinsley Matter)**

Count 1 – Respondent willfully violated section 6103 (failure to comply with court order) by failing to comply with eight court orders issued by Yolo County Superior Court from October 2013 to July 2014 in *People v. Tinsley*, case No. Cr-13-3646 (*Tinsley*).

Count 2 – Respondent willfully violated section 6068, subdivision (b), by failing to appear in court and by appearing in court late and thus failing to maintain the respect due to the courts and judicial officers.

Count 3 – Respondent willfully violated section 6068, subdivision (d) (seeking to mislead a judge), by stating to the court on April 22, 2014, that a judge told him to "just show up when you show up" when he knew that the statement was false in *Tinsley*.

Count 4 – Respondent willfully violated section 6106 (moral turpitude) by making a misrepresentation to the court on April 22, 2014, when he knew or was grossly negligent in not knowing that the statement was false.

Count 5 – Respondent willfully violated section 6103 by failing to comply with a court order to pay \$1,000 sanctions, issued by Yolo County Superior Court on July 18, 2014.

Count 6 – Respondent willfully violated section 6103 by failing to comply with a court order to turn over his file to the Public Defender in *Tinsley* issued on August 25, 2014.

Count 7 – 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 Yolo County Superior Court on July 18, 2014.

Count 8 – Respondent willfully violated rule 3-700(D)(1) of the Rules of Professional Conduct (failure to return client papers/property) by failing to promptly release to his client, upon the client’s new counsel’s request on July 25, 2014, the client’s property and papers.

Count 9 – 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 September 3 and September 19, 2014 letters.

**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.

## RECOMMENDATIONS

### Disbarment

The court recommends that respondent **Patrick Dean Holstine**, State Bar number 253292, 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 **Patrick Dean Holstine**, State Bar number 253292, 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: January 26, 2016

  
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 January 26, 2016, 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:

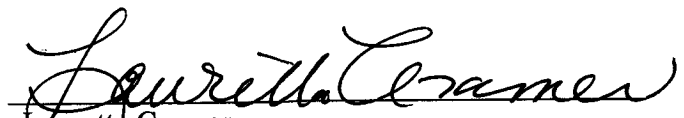
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

PATRICK D. HOLSTINE  
PATRICK DEAN LAW | A SOLO  
PRACTICE  
9076 POSADA WAY  
SACRAMENTO, CA 95826

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

Robin B. Brune, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on January 26, 2016.

  
Laurretta Cramer  
Case Administrator  
State Bar Court