



**PUBLIC MATTER**

**FILED**

*18*

**OCT 26 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-05448-LMA
	)	
<b>NICHOLAS HRANT LAMBAJIAN,</b>	)	<b>DECISION AND ORDER OF</b>
	)	<b>INVOLUNTARY INACTIVE</b>
<b>Member No. 175420,</b>	)	<b>ENROLLMENT</b>
	)	
<u>A Member of the State Bar.</u>	)	

Respondent **Nicholas Hrant Lambajian** (respondent) was charged with willfully violating conditions attached to a disciplinary probation. He failed to appear at the trial of this case 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>1</sup>

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.<sup>2</sup>

<sup>1</sup> Unless otherwise indicated, all references to rules are to this source.

<sup>2</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).)

In the instant case, the court concludes that all of 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 the practice of law in California on December 12, 1994, and has been a member of the State Bar since then.

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

On January 9, 2015, the State Bar filed and properly served the notice of disciplinary charges (NDC) in this matter on respondent by certified mail, return receipt requested, to his membership records address. On February 9, 2015, respondent filed his Answer to the NDC.

Trial was set in this matter for May 12-14, 2015. On February 9, 2015, and on April 6, 2015, the court filed and served on respondent at his membership records address, by first-class mail, postage paid, an order setting forth that trial was set for May 12-14, 2015.

The State Bar appeared for trial on May 12, 2015, but respondent did not.

Finding that all of the requirements of rule 5.81(A) were satisfied, the court entered respondent's default by order filed May 12, 2015. The order notified respondent that if he did not timely move to set aside his default, the court would recommend his disbarment.<sup>3</sup> The order also placed respondent on involuntary inactive status 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 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].)

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<sup>3</sup> The order was properly served on respondent at his membership records address by certified mail, return receipt requested.

On July 14, 2015, the State Bar filed the petition for disbarment.<sup>4</sup> As required by rule 5.85(A), the State Bar reported in the petition that: (1) respondent has not contacted the State Bar since May 12, 2015, the date the order entering default was served on respondent;<sup>5</sup> (2) there is a matter pending against respondent that is currently abated; (3) respondent has two records of prior discipline; and (4) the Client Security Fund (CSF) has not paid out 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 August 11, 2015.

### **Prior Record**

Respondent has been disciplined on two prior occasions. Pursuant to a Supreme Court order filed on July 17, 2013, respondent was suspended for one year, the execution of which was stayed, and he was placed on probation for one year subject to certain conditions, including a 30-day suspension. Respondent stipulated in this matter to (1) recklessly, intentionally or repeatedly failing to perform legal services with competence; (2) failing to promptly return unearned advanced fees; (3) failing to promptly pay to his client funds in respondent's possession which his client was entitled to receive; and (4) failing to promptly respond to reasonable client status inquires.

Pursuant to a Supreme Court order filed on January 22, 2015, respondent was suspended for three years, the execution of which was stayed, and he was placed on probation for three years subject to conditions, including a 90-day suspension. Respondent stipulated that he held himself out as entitled to practice law and actually practiced law when he was not an active member of the State Bar. He also stipulated that by holding himself out as entitled to practice

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<sup>4</sup> The disbarment petition was properly served on respondent by certified mail, return receipt requested, to his membership records address.

<sup>5</sup> This is also the date the order entering respondent's default was filed.

law and actually practicing law when he knew he was not an active member of the State Bar, he committed an act involving moral turpitude, dishonesty or corruption.

**The Admitted Factual Allegations Warrant the Imposition of Discipline**

Upon entry of a 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-05448 (Probation Violations Matter)**

Respondent willfully violated Business and Professions Code section 6068, subdivision (k) (failure to comply with probation conditions) by (1) failing to timely submit a quarterly report; (2) failing to submit to the Office of Probation a final report; and (3) failing to attend Ethics School by a certain date.

**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 this proceeding, as he filed an Answer to the NDC, and he had adequate notice of the trial dates prior to entry of the default;
- (3) the default was properly entered under rule 5.81; 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 appear for the trial of 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 **Nicholas Hrant Lambajian**, State Bar number 175420, 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 Nicholas Hrant Lambajian, State Bar Number 175420, be involuntarily enrolled

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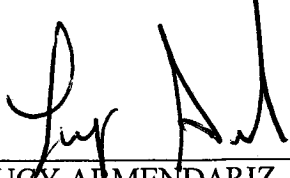
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as an inactive member of the State Bar of California, effective three calendar days after the service of this decision and order. (Rule 5.111(D).)

Dated: October 26, 2015

  
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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 October 26, 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:

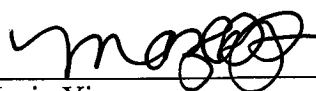
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

NICHOLAS H. LAMBAJIAN  
PO BOX 2178  
MONROVIA, CA 91017

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

RONALD K. BUCHER, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on October 26, 2015.

  
\_\_\_\_\_  
Mazie Yip  
Case Administrator  
State Bar Court