

**FILED**

**JUN 27 2016**

**STATE BAR COURT  
CLERK'S OFFICE  
LOS ANGELES**

# **PUBLIC MATTER**

**STATE BAR COURT OF CALIFORNIA**

**HEARING DEPARTMENT – LOS ANGELES**

In the Matter of	)	Case No.: 14-O-04199-YDR
	)	
<b>JAY A. GHOREICHI,</b>	)	
	)	<b>DECISION AND ORDER OF</b>
<b>Member No. 177274,</b>	)	<b>INVOLUNTARY INACTIVE</b>
	)	<b>ENROLLMENT</b>
<u>A Member of the State Bar.</u>	)	

Respondent Jay A. Ghoreichi (Respondent) was charged with five counts of misconduct. He failed to participate either in person or through counsel, and his default was entered. Thereafter, 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 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.<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 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**

### **Jurisdiction**

Respondent was admitted to practice law in this state on June 12, 1995, and has been a member since that date.

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

On September 4, 2015, the State Bar filed and properly served the 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.) On September 17, 2015, the United States Postal Service (USPS) returned the NDC to the State Bar bearing the stamp "RETURN TO SENDER UNABLE TO FORWARD."

Thereafter, the State Bar took additional steps to notify Respondent about these proceedings. From September 4, 2015, through October 7, 2015, the State Bar: (1) twice sent a courtesy copy of the NDC to Respondent by regular first-class mail at an alternate address (the NDC was not returned by USPS);<sup>3</sup> (2) twice emailed a courtesy copy of the NDC to Respondent at an alternate email address; (3) attempted to contact Respondent by telephone at the alternate number given by Respondent; and (4) attempted to contact Respondent by telephone at an alternate number obtained from directory assistance.

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<sup>3</sup> On October 22, 2014, a State Bar investigator conducted an Internet search and obtained an alternate address for Respondent. On October 23, 2014, the investigator spoke to Respondent and confirmed that Respondent had moved to the previously found alternate address. In addition, Respondent provided the investigator with an alternate telephone number and email address that were different from his membership records telephone number and email address.

Despite the State Bar's efforts, Respondent failed to file a response to the NDC. On October 14, 2015, the State Bar filed and properly served a motion for entry of Respondent's default on Respondent at his membership records address.<sup>4</sup> The motion complied with all of the requirements for a default, including a supporting declaration of reasonable diligence by the State Bar deputy 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. Respondent did not file a response to the motion, and his default was entered on November 2, 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 March 18, 2016, 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 no other disciplinary matters pending against Respondent; (3) Respondent has one prior disciplinary record; and (4) the Client Security Fund has not paid any claims as a result of Respondent's misconduct. 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 April 20, 2016.

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<sup>4</sup> On the same date, the State Bar served a courtesy copy of the default motion on Respondent by regular first-class mail at his alternate address.

### **Prior Record of Discipline**

Respondent has one prior record of discipline. Pursuant to an order of the Supreme Court filed on July 31, 2008, Respondent was suspended for eighteen months and until he proved his rehabilitation, fitness to practice, and learning in the general law, stayed, and placed on probation for two years. Respondent stipulated to misconduct in three client matters, which included the failure to properly maintain client funds in his client trust account (CTA); seeking an agreement with a complainant for the complainant to withdraw his complaint with the State Bar; and failing to keep a client reasonably informed of significant developments in a matter for which he agreed to provide legal services.

### **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 No. 14-O-04199 (The Garcia Matter)**

Count One – The court does not find Respondent culpable of willfully violating rule 3-110(A) of the Rules of Professional Conduct (failure to perform legal services with competence) as the facts deemed admitted as a result of the entry of Respondent's default do not support a finding by clear and convincing evidence that Respondent intentionally, repeatedly, or recklessly failed to perform legal services with competence.

Count Two – Respondent willfully violated rule 4-100(A) of the Rules of Professional Conduct (failure to maintain client funds in trust account) by failing to maintain \$16,690 in client settlement proceeds in his CTA.

Count Three – Respondent willfully violated Business and Professions Code section 6106 (moral turpitude – misappropriation) by dishonestly or gross negligently misappropriating for Respondent’s own purposes \$16,190 owed to his client’s medical providers for medical lien payments.

Count Four – Respondent willfully violated Business and Professions Code section 6068, subdivision (m) (failure to inform client of significant developments), by failing to inform his client in July 3013 that Respondent moved from his office in Los Angeles, California to Washington, D.C.

Count Five - Respondent willfully violated section 6068, subdivision (i) (failure to cooperate), by failing to provide substantive responses to five State Bar letters and emails received by Respondent that requested a response to allegations of misconduct being investigated.

**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. Accordingly, the court recommends disbarment.

## **RECOMMENDATION**

### **Disbarment**

The court recommends that Respondent Jay A. Ghoreichi, State Bar number 177274, be disbarred from the practice of law in the State of California and that his name be stricken from the roll of attorneys.<sup>5</sup>

### **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 Jay A. Ghoreichi, State Bar number 177274, 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: June 24, 2016

  
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YVETTE D. ROLAND  
Judge of the State Bar Court

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<sup>5</sup> The court does not recommend Respondent pay \$16,190 in restitution to his client's medical providers because there are no factual allegations outlining the amount of each provider's lien.

## 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 Los Angeles, on June 27, 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:

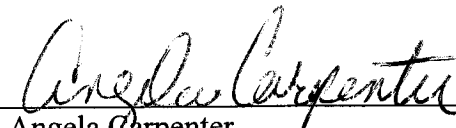
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

JAY A GHOREICHI  
GHOREICHI LAW FIRM  
10250 CONSTELLATION BLVD  
STE 2320  
LOS ANGELES, CA 90067

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

Agustin Hernandez, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on June 27, 2016.

  
\_\_\_\_\_  
Angela Carpenter  
Case Administrator  
State Bar Court