

**FILED**

JUN 06 2016

 STATE BAR COURT
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PUBLIC MATTER

STATE BAR COURT OF CALIFORNIA

HEARING DEPARTMENT – LOS ANGELES

In the Matter of)	Case No.: 14-O-05677-YDR
)	
JAMES EDWARD GRISWOLD,)	DECISION AND ORDER OF
)	INVOLUNTARY INACTIVE
Member No. 207294,)	ENROLLMENT
)	
<u>A Member of the State Bar.</u>)	

Respondent **James Edward Griswold** ("Respondent") was charged with four 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.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

Jurisdiction

Respondent was admitted to practice law in this state on June 6, 2000 and has been a member since then.

Procedural Requirements Have Been Satisfied

On August 6, 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 August 20, 2015, the United States Postal Service ("USPS") returned the NDC with a "Return to Sender, Unable to Forward" label attached to the envelope.

Thereafter, the State Bar took additional steps to notify Respondent of these proceedings. These efforts included emailing a copy of the NDC to Respondent at his membership records email address;³ sending a copy of the NDC to Respondent by facsimile at his membership records facsimile number; and emailing and sending a letter to Respondent via facsimile advising Respondent that if he failed to file a response to the NDC, the State Bar would file a motion for entry of default.⁴

Despite the State Bar's efforts, Respondent failed to file a response to the NDC. On September 10, 2015, the State Bar filed and properly served a motion for entry of Respondent's

³ Effective February 1, 2010, all attorneys are required to maintain a current email address to facilitate communications with the State Bar. (Cal. Rules of Court, rule 9.7(a)(2).)

⁴ The letter was emailed to Respondent's membership records email address and sent by facsimile to his membership records facsimile number. Respondent has consistently used his membership records email address to communicate with the State Bar.

default on Respondent at his membership records address.⁵ 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 September 30, 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 February 10, 2016, the State Bar properly filed and served the petition for disbarment on Respondent at his official membership records address. Due to the State Bar's failure to fully comply with rule 5.85(A), this court filed an Order Denying Petition For Disbarment Without Prejudice on May 24, 2016. Subsequently, on June 1, 2016, the State Bar filed an amended petition for disbarment which complied with rule 5.85(A). As required by rule 5.85(A), the State Bar reported in the amended petition that: (1) there has been no contact with Respondent since his default was entered; (2) Respondent has four other matters pending before the State Bar Court; (3) Respondent has no prior disciplinary record; and (4) the Client Security Fund has not paid any claims as a result of Respondent's misconduct.

⁵ On September 17, 2015, the USPS returned the motion for entry of default to the State Bar, but the State Bar had also emailed a copy of the motion to Respondent at his membership records email address and sent a copy by facsimile to his membership records facsimile number.

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-05677 (The Saldana Matter)

Count One – Respondent willfully violated Rules of Professional Conduct, rule 3-700(A)(2) (improper withdrawal from employment) by failing, upon termination, to take reasonable steps to avoid reasonably foreseeable prejudice to his client and to inform his client that Respondent was withdrawing from employment.

Count Two – Respondent willfully violated Business and Professions Code section 6103⁶ (duty to obey court order) by failing to comply with the superior court's orders to personally appear on October 10, 2015, and to pay \$1,000 in sanctions to the court by November 17, 2014.

Count Three – Respondent willfully violated section 6068, subdivision (i), (failure to cooperate) by failing to provide a substantive response to three letters regarding a disciplinary investigation that Respondent received from the State Bar.

Count Four – Respondent willfully violated section 6068, subdivision (j) (failure to update membership address), by failing to notify the State Bar of the change in Respondent's address within 30 days, as required by Business and Professions Code section 6002.1.

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:

⁶ Unless otherwise indicated, all references to sections are to the Business and Professions Code.

- (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.

RECOMMENDATION

Disbarment

The court recommends that Respondent **James Edward Griswold**, State Bar number 207294, 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 Edward Griswold**, State Bar number 207294, 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 6, 2016



YVETTE D. ROLAND
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 Los Angeles, on June 6, 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:

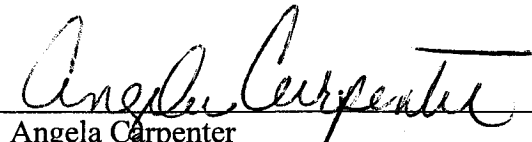
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

JAMES E. GRISWOLD
100 OCEANGATE 12TH FL STE 432
LONG BEACH, CA 90802

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

Elizabeth G. Stine, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on June 6, 2016.



Angela Carpenter
Case Administrator
State Bar Court