

AUG 04 2017

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

In the Matter of)	Case No. 15-C-11743-LMA
)	
RICHARD LEO DENMAN,)	DECISION AND ORDER OF
)	INVOLUNTARY INACTIVE
A Member of the State Bar, No. 164058.)	ENROLLMENT
_____)	

Respondent Richard Leo Denman (Respondent) was convicted in the Southern District of New York for violating 18 USC 2113(b) (misdemeanor bank larceny). Upon finality of the conviction, the Review Department issued an order referring this matter to the Hearing Department for a hearing and decision recommending the discipline to be imposed. Respondent failed to participate either in person or through counsel, and his default was entered. The 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 hearing on conviction, 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. Rule 5.345(C) makes the default procedures in rules 5.80-5.86, with certain exceptions, applicable in conviction proceedings.

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 April 27, 1993, and has been a member since then.

Procedural Requirements Have Been Satisfied

On or about June 30, 2016, Respondent pleaded guilty to a misdemeanor violation of 18 USC 2113(b) (misdemeanor bank larceny), a crime involving moral turpitude. On December 15, 2016, the Office of Chief Trial Counsel of the State Bar of California (State Bar) transmitted evidence of finality of Respondent's conviction to the Review Department. On January 11, 2017, the Review Department referred the matter to the Hearing Department for a hearing and decision recommending the discipline to be imposed. On January 12, 2017, the State Bar Court filed a Notice of Hearing on Conviction. On January 13, 2017, the Notice of Hearing on Conviction was properly served on Respondent by certified mail, return receipt requested, at his membership records address. The Notice of Hearing on Conviction notified Respondent that his failure to timely file a written answer to the notice would result in a disbarment recommendation. (Rule 5.345.)

In addition, Respondent had actual notice of this proceeding. On February 10, 2017, a senior trial counsel for the State Bar spoke with Respondent by telephone. Respondent evinced awareness of the conviction referral proceeding, but claimed that he had already submitted his

resignation to the State Bar of California.³ Respondent told the senior trial counsel that he did not intend to participate in the disciplinary proceeding.

Respondent subsequently failed to file a response to the notice of hearing on conviction. On February 17, 2017, the State Bar filed and properly served a motion for entry of Respondent's default. The motion included a supporting declaration of reasonable diligence by the 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.

Respondent did not file a response to the motion, and his default was entered on March 10, 2017. The order entering 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 he has remained inactively enrolled since that time.

Respondent also 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 June 20, 2017, the State Bar filed the petition for disbarment. As required by rule 5.85(A), the State Bar reported in the petition that: (1) it has had contact with Respondent since the default was entered;⁴ (2) Respondent has one other disciplinary matter pending; (3) Respondent has no prior record of discipline; and (4) the Client Security Fund has not made any payments resulting from Respondent's conduct.

³ The State Bar investigated Respondent's claim that he had previously submitted his resignation, but did not find any indication that the State Bar of California had received a resignation from Respondent.

⁴ Respondent sent a few emails to the State Bar after his default was entered. The last email the State Bar received from Respondent was on March 11, 2017.

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 July 21, 2017.

The Admitted Factual Allegations Warrant the Imposition of Discipline

Upon entry of Respondent's default, the factual allegations set forth in Respondent's conviction matter 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 Respondent's conviction matter support the conclusion that Respondent violated a statute, rule, or court order that would warrant the imposition of discipline. (Rule 5.85(F)(1)(d).)

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Respondent was convicted of violating 18 USC 2113(b) (misdemeanor bank larceny).⁵ From in or about January 2012 up to and including in or about May 2013, Respondent devised a scheme for obtaining money and property by means of false and fraudulent pretenses, to wit, falsely claiming to act as a legal adviser to the heirs to an estate that he would preserve a portion of the estate in an escrow account, when, in fact, he converted a substantial portion of the assets for his own use. On or about June 30, 2016, Respondent pled guilty to a violation of 18 USC 2113(b).

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 notice of hearing on conviction was properly served on Respondent;
- (2) Respondent had actual notice of the proceedings prior to the entry of his default;
- (3) the default was properly entered under rule 5.80; and

⁵ As noted by the Review Department in its underlying referral, misdemeanor bank larceny is a crime that involves moral turpitude.

(4) the factual allegations in Respondent's conviction matter 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 actual 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 Richard Leo Denman 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 Richard Leo Denman, State Bar number 164058, be involuntarily enrolled as an

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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: August 4, 2017



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 August 4, 2017, 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:

RICHARD L. DENMAN
530 PARK AVE #18G
NEW YORK, NY 10021

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

SHERRIE B. McLETCHE, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on August 4, 2017.



Bernadette Molina
Case Administrator
State Bar Court