

**PUBLIC MATTER
FILED**

OCT 15 2015

**STATE BAR COURT CLERK'S OFFICE
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**STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – LOS ANGELES**

In the Matter of)	Case No.: 15-N-10010-LMA
)	
WARREN LEON BROWN,)	DECISION AND ORDER OF
)	INVOLUNTARY INACTIVE
Member No. 100404,)	ENROLLMENT
)	
<u>A Member of the State Bar.</u>)	

Respondent Warren Leon Brown (respondent) was charged with willfully violating California Rules of Court, rule 9.20, by failing to file a declaration of compliance with that rule in conformity with the requirements of rule 9.20(c), as required by an order of the Supreme Court. Respondent failed to participate, either in person or through counsel, and his default was entered. Thereafter, the Office of the Chief Trial Counsel of the State Bar of California (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

¹ Unless otherwise indicated, all references to rule(s) 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.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 December 1, 1981, and has been a member since then.

Procedural Requirements Have Been Satisfied

On February 11, 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.) In the declaration of the assigned deputy trial counsel, which was submitted with the Motion for Entry of Default, it was stated that on February 17, 2015, the return receipt for the NDC, bearing the signature of one "Lori Hiner," UPS Store Manager, was received by the State Bar.

In addition reasonable diligence was used to notify respondent of this proceeding. The State Bar made various efforts to contact respondent without success. Those efforts, beginning on February 11, 2015 and continuing through March 19, 2015, included, but, were not limited to: (1) performing a Lexis search, which resulted in the identification of four addresses associated with respondent; (2) sending a courtesy copy of the NDC to respondent at his membership records address by regular first-class mail; (3) attempting to reach respondent at his

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).)

official membership records telephone number; (4) performing a google search which resulted in locating the following address and telephone number for respondent: "315 Arden Avenue, STE 28, Glendale, CA 91203-1119 and 818-507-4908); (5) sending a courtesy letter and a copy of the NDC to respondent at five separate addresses, informing him of the State Bar's intent to file a motion for entry of default; (6) sending a State Bar investigator to three of the addresses associated with respondent in order to determine, which, if any, was a valid address; (7) learning what may be respondent's "last known address" as a result of the State Bar investigator's efforts and (8) sending a courtesy letter and a copy of the February 11, 2015 NDC and the March 16, 2015 status conference order to respondent on March 19, 2015, at the seemingly "last known address" for respondent.

Notwithstanding the above efforts by the DTC, respondent did not file a response to the NDC. Consequently, on March 23, 2015, the State Bar properly served respondent with a motion for entry of respondent's default. Shortly thereafter, on March 25, 2015, the State Bar filed the motion for entry of default in the State Bar Court. The motion complied with all the requirements for a default, including a supporting declaration of reasonable diligence by the DTC, 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 April 8, 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(B); Rule 5.83(C)(1) [attorney has 90 days to file motion to set aside default].) On July 17, 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) respondent did not contact the State Bar since his default was entered;³ (2) respondent has one disciplinary matter pending against him;⁴ and (3) respondent has two records of prior discipline.⁵

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 August 24, 2015.

Prior Record of Discipline

Respondent has two prior records of discipline⁶. Pursuant to a Supreme Court order filed on December 10, 2012, in case No. S205807 (State Bar Court case No. 11-O-18907) respondent

³ Rule 5.85(A)(1) requires that a petition for default after disbarment be supported by a declaration stating whether the State Bar has had any contact with the member since the default was entered. While the State Bar stated in the body of its petition that respondent did not contact the State Bar since his default was entered, that statement should have been included in the declaration, not just in the petition.

⁴ Rule 5.85(A)(2) requires that a petition for default after disbarment be supported by a declaration stating whether “any **other** investigations or disciplinary charges are pending against the member.” [Emphasis added.] The State Bar in its declaration to the petition for disbarment stated that respondent has one disciplinary matter pending. It then described that matter as the one in which “[r]espondent failed to file a declaration of compliance with California Rules of Court, rule 9.20, as required by Supreme Court order S220129, in willful violation of California Rules of Court, rule 9.20.” However, Supreme Court order S220129 (State Bar Court Nos. 13-O-13493; 14-O-01949) was issued in the disciplinary matter underlying this matter. It is an adjudicated matter, not a pending matter. It is the instant matter that addresses whether respondent willfully violated rule 9.20. This matter is the only matter pending against respondent, regarding his failure to comply with Supreme Court order S220129.

⁵ Rule 5.85(A)(4) requires that a petition for default after disbarment be supported by a declaration stating whether the Client Security Fund has paid out claims as a result of the member’s misconduct. The State Bar neglected to indicate whether the Client Security Fund has made any payments resulting from respondent’s misconduct.

⁶The petition for disbarment failed to include an authenticated copy of respondent’s prior record of discipline as required by rule 5.85(B). Consequently, on July 21, 2015, the court filed

was suspended for one year, the execution of which stayed, and he was placed on probation for three years, subject to conditions, including that he be suspended from the practice of law for 90 days. In this matter, respondent stipulated to three counts of misconduct, including failing to provide an appropriate accounting of all funds coming into his possession, failing to release upon termination of employment at the request of the client all the client papers and property, and failing to cooperate in a disciplinary investigation.

Pursuant to a Supreme Court order filed on May 27, 2014, in case No. S220129 (State Bar Court case Nos. 13-O-13943; 14-O-01949) respondent was suspended for two years, the execution of which stayed, and he was placed on probation for two years, subject to conditions, including that he be suspended from the practice of law for the first year of probation. In this matter, respondent stipulated to failing to release to the client all client papers and property upon termination of employment, failing to cooperate in a disciplinary investigation, and failing to comply with the terms of his disciplinary probation in his prior disciplinary matter.

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

an order directing the State Bar to provide an authenticated copy of respondent's prior record of discipline. On July 27, 2015, the State Bar filed a Supplemental Petition for Disbarment after Default. However, that Supplement Petition was still deficient in that the State Bar neglected to provide a copy of the records for respondent's first disciplinary matter, i.e., case No. S205807 (State Bar Court case No. 11-O-18907). As the State Bar has failed to submit respondent's first prior record of discipline into evidence, the court, in the interest of justice and on its own motion, takes judicial notice of the pertinent State Bar Court records regarding respondent's first prior record of discipline, admits them into evidence, and directs the Clerk to include copies in the record of this case.

The court also admits into evidence the certified copy of respondent's second prior disciplinary matter, which was attached to the State Bar's July 27, 2015 Supplemental Petition for Disbarment After Default.

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 15-N-10010 (Rule 9.20 Matter)

Respondent willfully violated California Rules of Court, rule 9.20 (duties of disbarred, resigned or suspended attorneys) by not filing, with the clerk of the State Bar Court, by November 25, 2014, a declaration of compliance with California Rules of Court, rule 9.20, in conformity with the requirements of rule 9.20(c), as required by the Supreme Court in order number S220129.

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 disbarment.

RECOMMENDATIONS

Disbarment

The court recommends that respondent Warren Leon Brown 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 Warren Leon Brown, State Bar number 100404, be involuntarily enrolled as an inactive member of the State Bar of California, effective three calendar days after service of this decision and order. (Rule 5.111(D).)

Dated: October 15, 2015



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 15, 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:

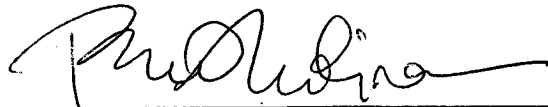
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

WARREN LEON BROWN
LAW OFFICES OF WARREN BROWN
2029 VERDUGO BLVD # 775
MONTROSE, CA 91020

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

NINA SARRAF-YAZDI, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on October 15, 2015.



Bernadette C.O. Molina
Case Administrator
State Bar Court