

PUBLIC MATTER

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STATE BAR COURT OF CALIFORNIA

HEARING DEPARTMENT – SAN FRANCISCO

In the Matter of)	Case No.: 15-N-12582-PEM
)	
EDWARD GRIFFIN DUREE,)	
)	DECISION AND ORDER OF
Member No. 116569,)	INVOLUNTARY INACTIVE
)	ENROLLMENT
A Member of the State Bar.)	
_____)	

Respondent Edward Griffin Duree (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. He failed to participate, either in person or through counsel, 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.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 rules 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 California on December 3, 1984, and has been a member since then.

Procedural Requirements Have Been Satisfied

On June 23, 2015, the State Bar properly filed and served the NDC on respondent by certified mail, return receipt requested, to 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.) A courtesy copy of the NDC was also sent to respondent by regular first class mail to his membership records address. The mailings by certified mail and regular mail were returned as undeliverable. A courtesy copy of the NDC was also sent to respondent by email to his official membership records email address, to an additional email address, and to his former counsel's email address. The emails were not returned as undeliverable.

Because respondent is currently on disciplinary probation, the State Bar contacted his assigned probation deputy for any other alternate address and was advised of none.

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).)

On July 20, 2015, the State Bar attempted to telephone respondent at his official membership records telephone number but the automatic message stated that calls were not being accepted.

To date, respondent has not contacted the State Bar.

Respondent failed to file a response to the NDC. On July 22, 2015, the State Bar properly filed and served a motion for entry of respondent's default. The motion complied with all 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 August 7, 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 December 30, 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) there has been no contact with respondent since his default was entered; (2) there are no disciplinary matters pending against respondent; (3) respondent has three records of prior discipline; and (4) the Client Security Fund has not paid 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 January 26, 2016.

Prior Record of Discipline

Respondent has three prior records of discipline.³ Pursuant to a Supreme Court order filed on September 11, 1997, respondent was suspended for 90 days, the execution of which was stayed, and placed on probation for one year. Respondent failed to cooperate with the State Bar investigation and engaged in the unauthorized practice of law. Respondent entered into a stipulation in this prior disciplinary matter.

Pursuant to a Supreme Court order filed on June 28, 2012, respondent was suspended for one year, the execution of which was stayed, and placed on probation for two years subject to conditions including that he be suspended from the practice of law for 30 days. Respondent failed to cooperate with the State Bar investigation and engaged in trust accounting violations. Respondent also entered into a stipulation in this prior disciplinary matter.

Pursuant to a Supreme Court order filed on February 10, 2015, respondent was suspended for three years, the execution of which was stayed, and placed on probation for four years subject to conditions including that he be suspended from the practice of law for two years and until satisfactory proof of rehabilitation. Respondent failed to comply with probation conditions and failed to obey a court order.

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

³ The court admits into evidence the certified copies of respondent's prior record of discipline attached to the December 30, 2015 petition for disbarment.

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-12582 (Rule 9.20 Matter)

Respondent willfully violated California Rules of Court, rule 9.20 (duties of disbarred, resigned or suspended attorneys), by failing to file proof of compliance as required by rule 9.20(c), as ordered by the Supreme Court in its February 10, 2015 order.

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 his disbarment.

RECOMMENDATIONS

Disbarment

The court recommends that respondent Edward Griffin Duree, State Bar number 116569, 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 Edward Griffin Duree, State Bar number 116569, 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: April 12, 2016



PAT McELROY
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 April 12, 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 San Francisco, California, addressed as follows:

EDWARD GRIFFIN DUREE
4849 EL CEMONTE # 101
DAVIS, CA 95618

COURTESY COPY TO:
JOHN R. DUREE, JR.
428 J STREET #352
SACRAMENTO, CA 95814

- ☐ by certified mail, No. , with return receipt requested, through the United States Postal Service at , California, addressed as follows:

- ☐ by overnight mail at , California, addressed as follows:

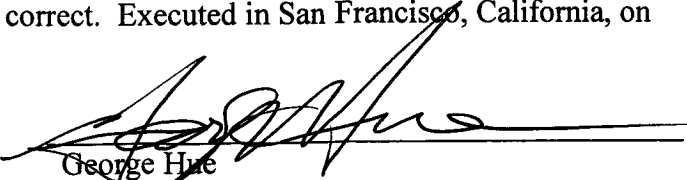
- ☐ by fax transmission, at fax number . No error was reported by the fax machine that I used.

- ☐ By personal service by leaving the documents in a sealed envelope or package clearly labeled to identify the attorney being served with a receptionist or a person having charge of the attorney's office, addressed as follows:

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

Heather E. Abelson, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on April 12, 2016.


George Hure
Case Administrator
State Bar Court