



**PUBLIC MATTER**  
**FILED**   
**JUN 05 2017**

**STATE BAR COURT CLERK'S OFFICE**  
**SAN FRANCISCO**

**STATE BAR COURT OF CALIFORNIA**  
**HEARING DEPARTMENT – SAN FRANCISCO**

In the Matter of	)	Case No.: 15-O-11603-LMA
	)	
BRYAN L. ROBINSON,	)	DECISION AND ORDER OF
	)	INVOLUNTARY INACTIVE
A Member of the State Bar, No. 188493,	)	ENROLLMENT
_____	)	

In this matter, respondent Bryan L. Robinson (Respondent) was charged with eleven counts of misconduct. He failed to appear at trial and his default was entered. The Office of 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.<sup>1</sup>

Rule 5.85 provides the procedure to follow when an attorney fails to appear at trial after receiving adequate notice and opportunity. The rule provides that, if an attorney's default is entered for failing to appear at trial and the attorney fails to have the default set aside or vacated within 45 days, the State Bar will file a petition requesting the court to recommend the attorney's disbarment.<sup>2</sup>

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.

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<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).)

## **FINDINGS AND CONCLUSIONS**

Respondent was admitted to practice law in this state on June 5, 1997, and has been a member since then.

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

On November 2, 2016, the State Bar filed and properly served a notice of disciplinary charges (NDC) on Respondent at his membership records address by certified mail, return receipt requested. The NDC notified Respondent that his failure to appear at the State Bar Court trial would result in a disbarment recommendation. (Rule 5.41.) On November 23, 2016, Respondent filed his response to the NDC. On December 12, 2016, Respondent appeared in court for a status conference.

On February 27, 2017, the State Bar appeared for trial but Respondent did not. Finding that all of the requirements of rule 5.81(A) were satisfied, the court issued and properly served an order entering Respondent's default that same day. The order notified Respondent that if he did not timely move to set aside or vacate his default, the court would recommend his disbarment. The order also placed Respondent on involuntary inactive status under Business and Professions Code section 6007, subdivision (e), and he has remained inactive since that time.

Respondent did not seek to have his default set aside or vacated. (Rule 5.83(C)(2) [attorney has 45 days after order entering default is served to file motion to set aside default].) On May 2, 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) since default was entered, the State Bar has had no contact with Respondent; (2) Respondent has another disciplinary charge pending; (3) Respondent has one prior disciplinary matter currently pending before the Review Department; and (4) the Client Security Fund has not made any payments resulting from

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 May 31, 2017.

The Hearing Department has recommended that Respondent be disciplined in a prior matter – State Bar Court case Nos. 13-O-15013 (14-O-00021). In this matter, which is currently pending before the Review Department,<sup>3</sup> the Hearing Department recommended that Respondent be suspended for three years, that the execution of that period of suspension be stayed, and he be placed on probation for four years, including a minimum period of actual suspension of two years and until: (1) full payment of restitution; and (2) satisfactory proof of Respondent's rehabilitation, fitness to practice, and present learning and ability in the general law. This discipline recommendation was based on the Hearing Department finding Respondent culpable on thirteen counts of misconduct in two client matters. Said misconduct included failing to perform legal services with competence (two counts), failing to refund unearned fees (two counts), failing to respond to client inquiries (two counts), failing to communicate significant developments, failing to promptly release a client's file, failing to obey a court order, committing moral turpitude by making misrepresentations (two counts), and failing to cooperate with a disciplinary investigation (two counts).

#### **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).)

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<sup>3</sup> A record of prior discipline is not made inadmissible by the fact that the discipline has been recommended but has not yet been imposed. (Rule 5.106(E).)

**Case Number 15-O-11603**

Count One – Respondent willfully violated rule 4-100(A) of the Rules of Professional Conduct (commingling – payment of personal expenses from trust account) by issuing 13 checks from funds in Respondent's client trust account for the payment of personal expenses.

Count Two – Respondent willfully violated rule 4-100(A) of the Rules of Professional Conduct (commingling – payment of personal expenses from trust account) by issuing 153 electronic/ACH payments from funds in Respondent's client trust account for the payment of personal expenses.

Count Three – Respondent willfully violated rule 4-100(A) of the Rules of Professional Conduct (commingling personal funds in trust) by depositing into his client trust account \$25,818.92 in checks belonging to Respondent.

Count Four – Respondent willfully violated rule 4-100(A) of the Rules of Professional Conduct (commingling personal funds in trust) by authorizing \$4,568.47 in electronic deposits of funds belonging to Respondent to be deposited into his client trust account.

Count Five – Respondent willfully violated rule 4-100(A) of the Rules of Professional Conduct (commingling personal funds in trust) by making 20 cash withdrawals for personal expenses from his client trust account totaling \$6,626.29.

Count Six – Respondent willfully violated rule 4-100(A) of the Rules of Professional Conduct (commingling personal funds in trust) by making 59 cash deposits of personal funds into his client trust account totaling \$17,290.29.

Count Seven – Respondent willfully violated rule 4-100(A) of the Rules of Professional Conduct (failure to deposit client funds in trust) by failing to deposit \$1,850 in client funds in a trust account.

Count Eight – Respondent willfully violated Business and Professions Code section 6068, subdivision (d) (seeking to mislead a judge), by knowingly making a false statement in an effort to mislead a judge.

Count Nine – the court does not find Respondent culpable of willfully violating Business and Professions Code section 6106 (moral turpitude – misrepresentation) because the court relied on the same misconduct to find culpability in Count Eight. The appropriate resolution of this case does not depend on how many rules of professional conduct or statutes proscribe the same conduct. (*In the Matter of Torres* (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138, 148.) The present misconduct is more aptly charged as an attempt to mislead a judge, as set forth above in Count Eight. Accordingly, Count Nine is dismissed with prejudice.

Count Ten – Respondent willfully violated Business and Professions Code section 6068, subdivision (c) (maintaining an unjust action) by filing meritless and frivolous appeals in the United States Bankruptcy Court and Ninth Circuit Court of Appeals.

Count Eleven – Respondent willfully violated Business and Professions Code section 6068, subdivision (i) (failing to cooperate in a disciplinary investigation) by failing to provide a substantive response to the allegations in a disciplinary investigation after being contacted by the State Bar.

### **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) Respondent had actual notice of the proceedings prior to the entry of his default;
- (3) the default was properly entered under rule 5.81; and

(4) the factual allegations in the NDC deemed admitted by the entry of 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 appear for the trial 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 Bryan L. Robinson 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 Bryan L. Robinson, State Bar number 188493, 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: June 5, 2017

  
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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 June 5, 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:

BRYAN L. ROBINSON  
LAW OFC BRYAN ROBINSON  
945 TARAVAL ST PMB 403  
SAN FRANCISCO, CA 94116

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

ERICA L. M. DENNINGS, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on June 5, 2017.



Bernadette Molina  
Case Administrator  
State Bar Court