



PUBLIC MATTER

FILED

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT - LOS ANGELES

OCT 18 2016
STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

In the Matter of)	Case Nos.: 15-O-12044-DFM
)	(15-O-12360; 15-O-12374)
BRUCE ANTHONY THOMASON,)	
)	DECISION AND ORDER OF
Member No. 140596,)	INVOLUNTARY INACTIVE
)	ENROLLMENT
A Member of the State Bar.)	
)	

Respondent Bruce Anthony Thomason (Respondent) was charged with 10 counts of misconduct stemming from three separate matters. Respondent failed to participate, either in person or through counsel, 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.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 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.

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).)

FINDINGS AND CONCLUSIONS

Jurisdiction

Respondent was admitted to practice law in California on June 6, 1989, and has been a member since then.

Procedural Requirements Have Been Satisfied

On December 15, 2015, the State Bar attempted to file and serve a Notice of Disciplinary Charges (NDC) on Respondent by certified mail, return receipt requested, at his official membership records address. Additionally, the State Bar sent courtesy copies of the NDC to Respondent by regular mail at three additional addresses, all of which the State Bar believed to have been valid addresses for Respondent. However, the copy of the NDC, which the State Bar attempted to serve Respondent at his official membership records address via certified mail, was addressed to 23272 Mill Creek Drive, Suite 250, Laguna Hills, California 92653. Respondent's correct membership records address, however, was 23272 Mill Creek Drive, Suite 350, Laguna Hills, California 92653. Additionally, one of the courtesy copies of the NDC was also sent to the same incorrect address. Consequently, these attempts at service were returned to the State Bar by the U.S. Postal Service and service was not necessarily accomplished.

On December 15, 2015, this court, noting the error in the service address set forth in the proof of service attached to the NDC, required that the State Bar re-serve Respondent with the NDC at his correct membership records address.

On December 16, 2015, the State Bar refiled and properly served the NDC on Respondent at his correct membership records address by certified mail, return receipt requested, and by regular mail. The NDC that had been served by certified mail at Respondent's official membership records address was returned to the State Bar by the U.S. Postal service; however, the copy of the NDC, served by regular first class mail was not returned. The December 16th

NDC notified Respondent that his failure to participate in the proceeding would result in a disbarment recommendation. (Rule 5.41.)

Thereafter, the State Bar took additional steps to notify Respondent of these proceedings. On six separate dates in January 2016, the assigned senior trial counsel (STC) placed at least one call per day to Respondent's official membership telephone number. The STC left a message during each call, asking that Respondent call him regarding the motion for default. However, the STC received no response to his messages. The STC also contacted Respondent's State Bar probation deputy to inquire if the probation deputy had any communication with Respondent regarding Respondent's disciplinary probation. The probation deputy responded that Respondent had not contacted the State Bar, despite his probation conditions, requiring him to schedule and have a meeting with the probation deputy and provide a quarterly report to the Office of Probation. The STC also conducted searches on four different search engines in an attempt to locate Respondent. However the searches did not provide any new addresses or telephone numbers for Respondent.

On January 21, 2016, the investigator called Respondent's official membership telephone number and left a detailed message informing Respondent that the NDC had been filed and that the State Bar was in the process of filing a motion for entry of default. The message further informed Respondent that he needed to file his response to the NDC and that he had a duty to cooperate in a State Bar investigation. On January 22, 2016, the investigator sent a letter to Respondent at his official membership records address and two other possible addresses for Respondent via regular first class mail. The letters were not returned to the State Bar. The January 22nd letter was also sent via email to Respondent.

Despite the State Bar's many efforts, Respondent failed to file a response to the NDC. On January 28, 2016, the State Bar filed and properly served a motion for entry of default. The motion complied with all the requirements for a default. (Rule 5.80.) The motion further

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 and served on February 19, 2016. The order entering the default was served on Respondent at his membership records address by certified mail, return receipt requested.³ 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 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 21, 2016, the State Bar filed and properly served a petition for disbarment on Respondent at his official membership records address. The petition, however, did not fully comply with rule 5.85 of the Rules of Procedure of the State Bar. Consequently, on July 11, 2016, this court issued an order requiring the State Bar to augment the petition and bring it into full compliance with the requirements of rule 5.85.

On July 29, 2016, the State Bar augmented the petition by filing and properly serving a supplement to the petition for disbarment that included the previously omitted Supreme Court order (No. S226464), issued on September 15, 2015, in case Nos. 13-O-13506 et al., as well as the Notice of Disciplinary Charges, the Stipulation re Facts, Conclusions of Law and Disposition and Order Approving, and findings in *In the Matter of Bruce Anthony Thomason*, Supreme Court case No. S226464. (State Bar Court case Nos. 13-O-13506 et al.) By so doing, the State Bar brought the petition into compliance with the requirements of rule 5.85.

As required by rule 5.85(A), the State Bar reported in the petition that: (1) it has had no contact with Respondent since March 2015; (2) there are no other disciplinary matters pending

³ A copy of the order of entry of default was also sent to Respondent at his membership records address via regular first class mail.

against Respondent;⁴ (3) Respondent has a prior record of discipline; and (4) the Client Security Fund (CSF) has not made any payments as a result of Respondent's misconduct.⁵

Respondent did not respond to the petition or its subsequent augmentation or move to set aside or vacate the default. The case was submitted for decision on August 26, 2016.

Prior Record Of Discipline

Respondent has been disciplined on one prior occasion.⁶

Respondent was disciplined by the California Supreme Court, effective October 15, 2015. He was ordered suspended for three years, the execution of which was stayed, and he was placed on probation for four years subject to conditions, including that he be actually suspended from the practice of law for a minimum of 18 months and until he makes restitution to 12 former clients and furnishes proof to the State Bar Court of his rehabilitation, fitness to practice and learning and ability in the general law. The violations to which he stipulated, include: failure to perform with competence; failure to deposit client funds into a client trust account; failure to render appropriate accountings to clients; failure to refund unused costs to clients; failure to promptly return unearned advanced attorney fees; failure to respond to clients' reasonable status inquiries; failure to promptly release client papers and property; charging or collecting fees prior to fully performing loan modification services he had contracted to perform; engaging in the unauthorized practice of law in a jurisdiction other than California; charging and collecting an

⁴ However, the State Bar did report in the petition that, as of June 21, 2016, numerous matters concerning Respondent had been investigated and abated, pending resolution of the instant disciplinary proceeding.

⁵ The STC reported in his declaration submitted with the petition for disbarment that, as of June 21, 2016, the CSF had not paid any funds as a result of Respondent's misconduct. However, 16 applications concerning Respondent were pending with the CSF. The court notes and takes judicial notice of current State Bar records, pursuant to Evidence Code section 452, subdivision (h), which reflect that as of July 26, 2016, the CSF had paid out claim(s) against Respondent.

⁶ The court admits into evidence the certified copy of Respondent's prior record of discipline, which is attached as Exhibit 1 to the State Bar's July 29, 2016, supplement to the petition for disbarment.

illegal fee; and failing to cooperate in a State Bar investigation. In aggravation, Respondent committed multiple acts of misconduct, caused significant harm to his clients, acted with indifference to his wrongdoing, demonstrated a lack of insight into his wrongdoing, and failed to make restitution to certain clients. In mitigation, Respondent then had no prior record of discipline and he had entered a pretrial stipulation as to facts and culpability, thereby acknowledging wrongdoing and saving judicial resources and the State Bar's resources.

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(2).) As set forth below in greater detail, the factual allegations in the NDC support the conclusion that 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).)

1. Case Number 15-O-12044 (Campos Matter)

Count One – Respondent willfully violated Business and Professions Code section 6106.3, subdivision (a),⁷ by agreeing to attempt to provide loan modification services for a fee to be paid by the client, and thereafter charging and collecting \$3,900 in fees from that client for the services before having fully performed each and every service that he had contracted to perform or represented to the client that he would perform, in willful violation of Civil Code section 2944.7(a).⁸

Count Two – Respondent willfully violated rule 3-700(D)(1) of the Rules of Professional Conduct (failure to release file) by failing to promptly provide to the client the client's file after termination of employment and following the client's requests for the file.

⁷ Unless otherwise indicated, all further references to section(s), refer to provisions of the Business and Professions Code.

⁸ Section 6106.3, subdivision (a) provides in pertinent part that an attorney's conduct in violation of Civil Code section 2944.7(a) constitutes cause for imposition of discipline.

Count Three – Respondent willfully violated Section 6068, subdivision (i) (failing to cooperate in a disciplinary investigation), by failing to provide a substantive response to the State Bar’s June 12 and July 6, 2015 letters, which Respondent received and which requested his response to the allegations of misconduct being investigated in case No. 15-O-12044.

2. Case Number 15-O-12360 (Walton Matter)

Count Four – Respondent, who was not admitted to practice law in the State of Florida, willfully violated rule 1-300(B) (unauthorized practice of law in other jurisdiction)⁹ when he agreed to perform legal services for a client residing in Florida, in violation of the regulations of the legal profession in that jurisdiction and, in turn, in willful violation of the Rules of Professional Conduct, rule 1-300(B).¹⁰

Count Five – Respondent willfully violated rule 4-200(A) of the Rules of Professional Conduct (charging and collecting an illegal fee) by: (1) charging \$2,330 in legal fees from Jjovanna [sic] Walton (Walton), a client who resided in Florida, for legal services in that state when Respondent had not been admitted to the practice of law in Florida, was not entitled to practice law in that State, and whose efforts were in violation of the regulations of the legal profession in that jurisdiction and, in turn, in willful violation of the Rules of Professional Conduct, rule 1-300(B).

Count Six – Respondent willfully violated Business and Professions Code section 6068, subdivision (i), by failing to provide a substantive response to the State Bar’s June 29 and July 22, 2015 letters, which Respondent received and which requested his response to the allegations of misconduct being investigated in case No. 15-O-12360.

⁹ Rule 1-3000(B) provides that an attorney must not practice law in a jurisdiction where to do so would be in violation of regulations of the profession in that jurisdiction.

¹⁰ Florida Rule 4-5.5 prohibits a lawyer who is not admitted to the practice of law in Florida to “practice in Florida [or] hold out to the public or otherwise represent that the lawyer is admitted to practice law in Florida.”

3. Case Number 15-O-12374 (Baracao Matter)

Count Seven – Respondent willfully violated section 6106.3, subdivision (a), by agreeing to attempt to provide loan modification services to a client or other form of loan forbearance for a fee, and thereafter charging and collecting a fee from the client for the services in the amount of \$2,747.50, before having fully performed each and every service that he had contracted to perform or represented to the client that he would perform, in willful violation of Civil Code section 2944.7(a).

Count Eight – Respondent willfully violated section 6104 (appearing for party without authority) by appearing on July 12, 2013, as the attorney for Kathryn Baracao (Baracao), who was a party to the action entitled *In re Kathryn Baracao*, United States Bankruptcy Court, Central District of California, case No. 8:13-bk-1699-ES, when he filed a Chapter 13 Voluntary Petition in that action on Baracao's behalf without authority to do so.

Count Nine – Respondent willfully violated section 6068, subdivision (i), by failing to provide a substantive response to the State Bar's July 20 and August 6, 2015 letters, which Respondent received and which requested his response to the allegations of misconduct being investigated in case No. 15-O-12374.

Count Ten – Respondent willfully violated section 6068, subdivision (j) (failure to update membership address), by vacating his office in May 2015, which was located at the last address maintained on the official membership records of the State Bar and, thereafter, failing within 30 days to update that membership records address with a current office address or, if he has maintained no other office, with an address to be used as his membership records address for State Bar purposes.

Disbarment is Recommended

Based on the above, the court concludes that the requirements of rule 5.85(F) have been satisfied and that 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 **Bruce Anthony Thomason**, State Bar number 140596, be disbarred from the practice of law in the State of California and that his name be stricken from the roll of attorneys.

Restitution

The court also recommends that Respondent be ordered to make restitution to the following payees:

- (1) Miguel Campos in the amount of \$3,900 plus 10 percent interest per year from September 19, 2013;
- (2) Jjovanna Walton in the amount of \$2,330 plus 10 percent interest per year from May 6, 2014; and
- (3) Kathryn Baracao in the amount of \$2,747.50 plus 10 percent interest per year from June 27, 2103.

Any restitution owed to the Client Security Fund is enforceable as provided in Business and Professions Code section 6140.5, subdivisions (c) and (d).

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 **Bruce Anthony Thomason**, State Bar number 140596, 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: October 18, 2016


DONALD F. MILES
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 October 18, 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:

BRUCE A. THOMASON
THOMASON LAW CENTER
23272 MILL CREEK DR STE 350
LAGUNA HILLS, CA 92653

BRUCE ANTHONY THOMASON
17111 GOLDENWEST ST, #Q6G
HUNTINGTON BEACH, CA 92647

BRUCE A. THOMASON
6520 EASTERN AVENUE, #206
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BRUCE A. THOMASON
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HUNTINGTON BEACH CA 92647

BRUCE A. THOMASON
16787 BEACH BLVD. SUITE 726
HUNTINGTON BEACH CA 92657

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

CHARLES CALIX, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on October 18, 2016.



Rose M. Luthi
Case Administrator
State Bar Court