

FILED

JUL 27 2017

STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

PUBLIC MATTER

**STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT - LOS ANGELES**

In the Matter of)	Case No. 16-N-15705-DFM
)	
GEORGE STEVEN WASS,)	DECISION AND ORDER OF
)	INVOLUNTARY INACTIVE
A Member of the State Bar, No. 161732.)	ENROLLMENT
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Respondent George Steven Wass (Respondent) was charged with wilfully violating California Rules of Court, rule 9.20. He failed to participate in this proceeding, 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

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¹ Unless otherwise indicated, all references to rule(s) 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).)

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 1, 1992, and has been a member since then.

Procedural Requirements Have Been Satisfied

On October 26, 2016, the State Bar filed and properly served the Notice of Disciplinary Charges (NDC) on Respondent by certified mail, return receipt requested, at Respondent's membership records address. The NDC notified Respondent that his failure to participate in the proceeding would result in a disbarment recommendation. (Rule 5.41.) As set forth in the State Bar's December 12, 2016 declaration in support of the Motion for Entry of Default, the postal receipt for the NDC, was received by the State Bar on October 31, 2016. On the return receipt, the USPS employee indicated that the certified mailing had been delivered on October 28, 2016, to 777 E. Tahquitz Canyon Way, Suite 200-19, Palm Springs, CA 92262. That address is Respondent's official membership records address.

Thereafter, the State Bar took additional steps to inform Respondent of these proceedings. On November 21, 2016, Deputy Trial Counsel Ann Kim, who was assigned to this matter at that time, telephoned Respondent at his official membership telephone number. As Respondent did not answer the phone, Deputy Kim left a voicemail message for him. Respondent did not return Deputy Kim's call. On that same date, the State Bar Court held an initial Status Conference in this matter. Deputy Kim appeared on behalf of the State Bar; Respondent did not appear.

Another deputy trial counsel (DTC), Nina Sarraf-Yazdi, was assigned by the State Bar to this matter by December 7, 2016. On that date, DTC Sarraf-Yazdi sent an email to Respondent which included a copy of the NDC. In her email, the DTC informed Respondent of her intent to file a motion for entry of default. That email, which was sent to the email address listed with Respondent's official membership records, was delivered.

On December 7th, DTC Sarraf-Yazdi also telephoned Respondent at his official membership telephone number to inform him of her intent to file a motion for entry of default in this matter. Respondent answered the phone and informed DTC Sarraf-Yazdi that he would be filing a response to the NDC. However, in the DTC's declaration filed in support of the State Bar's motion for entry of default, she stated, under penalty of perjury, that she had not received Respondent's answer to the NDC as of December 12, 2016. She also stated that she had conducted a diligent search of the court's docket on December 12th and had found no record of Respondent's answer having been filed with the court.

Despite having informed the DTC that he would be filing a response to the NDC, Respondent failed to file a response to the NDC. Consequently, on December 13, 2016, the State Bar filed and properly 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 assigned deputy trial counsel. (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 January 3, 2017. 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 inactive 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 April 27, 2017, the State Bar filed and properly served on Respondent its petition for disbarment after default. However, because the State Bar had failed to attach to the petition a complete prior record of discipline as required by rule 5.85(B), on May 15, 2017, this court issued an "Order Directing the State Bar to Provide Authenticated Copies of [Respondent's] Prior Record of Discipline" within five days of the court's order. On May 16, 2017, the State Bar filed a "Second Supplemental Petition for Disbarment after Default to Include Prior Record of Discipline. . .," which included an authenticated copy of Respondent's complete prior record of discipline.

As required by rule 5.85(A), the State Bar reported in the petition that: (1) the State Bar had not received any contact from Respondent since his default was entered; (2) Respondent has two disciplinary matters pending against him; (3) Respondent has three prior records of discipline; and (4) the Client Security Fund has not paid out any claims as a result of Respondent's misconduct. 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 June 13, 2017.

Prior Record of Discipline

Respondent has three prior records of discipline.

Case Nos. 14-O-01244 (14-O-03750) Cons.

Pursuant to an order of the Supreme Court filed on September 11, 2015, Respondent was suspended for one year, the execution of which was stayed, and he was placed on probation for two years subject to conditions including, among other things, that he be suspended from the

practice of law for the first thirty days of probation. Respondent stipulated in this first disciplinary matter that he: (1) failed to perform legal services with competence in two separate client matters, in willful violation of rule 3-110(A) of the State Bar Rules of Professional Conduct; (2) failed to communicate with clients in two separate client matters in willful violation of Business and Professions Code section 6068, subdivision (m);³ (3) failed to promptly refund unearned fees to clients in each of two separate client matters in willful violation of rule 3-700(D)(2) of the State Bar Rules of Professional Conduct; (4) failed to provide an appropriate accounting of client funds to clients in two separate client matters in violation of rule 4-100(B)(3) of the State Bar Rules of Professional Conduct; and (5) failed to cooperate and participate in State Bar disciplinary investigations pending against him in two separate client matters in willful violation of section 6068, subdivision (i).

Case Nos. 14-O-04053 (14-O-04313)

Pursuant to an order of the Supreme Court filed on June 7, 2016,⁴ Respondent, was suspended for two years, the execution of which was stayed, and he was placed on probation for three years subject to conditions, including, among other things, that he be suspended from the practice of law for the first 60 days of probation. Respondent stipulated in this second disciplinary matter that he: (1) failed to perform legal services with competence in two separate client matters, in willful violation of rule 3-110(A) of the State Bar Rules of Professional Conduct; (2) failed to communicate with a client in one client matter in willful violation of section 6068, subdivision (m); (3) failed to promptly refund unearned fees to clients in two

³ Unless otherwise indicated, all further references to section(s) refer to provisions of the Business and Professions Code.

⁴ On June 7, 2016, the Supreme Court amended its February 17, 2016 Supreme Court Order S231091 (15-O-10285; 15-O-10981). Consequently, the June 7, 2016 Supreme Court order S231091 (14-O-04053; 14-O-04313) became the operative order imposing discipline in Respondent's second disciplinary matter, which arises from State Bar Court case Nos. 14-O-04053 (14-O-04313).

separate client matters in willful violation of rule 3-700(D)(2) of the State Bar Rules of Professional Conduct; (4) failed to provide an appropriate accounting of client funds to clients in two separate client matters in willful violation of rule 4-100(B)(3) of the State Bar Rules of Professional Conduct; and (5) failed to cooperate and participate in a disciplinary investigation pending against him in willful violation of section 6068, subdivision (i).

Case Nos. 15-O-10285 (15-O-10981)

Pursuant to an order of the Supreme Court filed on April 28, 2016, Respondent, was suspended for two years, the execution of which was stayed, and he was placed on probation for three years subject to conditions, including, among other things, that he be suspended from the practice of law for the first 90 days of probation. Respondent stipulated in this third disciplinary matter that he: (1) he engaged in conduct that violated Civil Code section 2944.7(a), thereby willfully violating Business and Professions Code section 6106.3, subdivision (a);⁵ (2) failed to perform legal services with competence in two separate client matters, in willful violation of rule 3-110(A) of the State Bar Rules of Professional Conduct; (3) failed to communicate with a client in willful violation of section 6068, subdivision (m); (4) failed to promptly refund unearned fees to clients in two separate client matters in willful violation of rule 3-700(D)(2) of the State Bar Rules of Professional Conduct; and (5) failed to cooperate and participate in disciplinary investigations pending against him in two separate client matters in willful violation of section 6068, subdivision (i).

⁵ 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. In case Nos. 15-O-10285 (15-O-10981), Respondent violated Civil Code section 2944.7(a) by agreeing to provide mortgage loan forbearance services to clients in two separate client matters for a fee to be paid by the clients, and thereafter charged and collected fees from those clients for the services before he had fully performed each and every service that he had contracted to perform or represented to the clients that he would perform,

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 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 16-N-15705⁶ (Rule 9.20 Compliance Matter)

Respondent wilfully violated rule 9.20 of the California Rules of Court by failing to file a declaration of compliance with rule 9.20, in conformity with the requirements of rule 9.20(c), with the clerk of the State Bar Court by July 7, 2016, as required by Supreme Court order number S231702.

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.

⁶ On page 2 of the Notice of Disciplinary Charges in the caption of Count One, the case number in the caption is incorrectly listed as "Case No. 16-N-15572. The State Bar Court case number assigned to this matter is "16-N-15705." However, as the error in the number appears to be a clerical mistake and in no way interferes with notice or any due process requirement, the court finds the error to be de minimis and of no consequence.

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 **George Steven Wass**, State Bar number 161732, 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

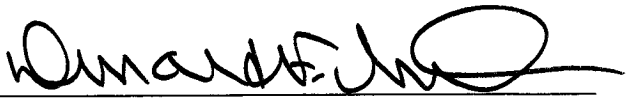
The court further recommends that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10, such costs being enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

ORDER OF INVOLUNTARY INACTIVE ENROLLMENT

In accordance with Business and Professions Code section 6007, subdivision (c)(4), the court orders that **George Steven Wass**, State Bar number 161732, 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: July 27, 2017


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 July 27, 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:

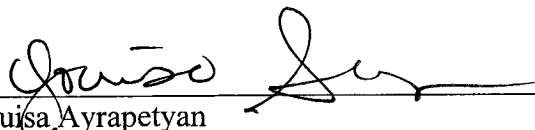
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

GEORGE S. WASS
777 E TAHQUITZ CANYON WAY
STE 200-19
PALM SPRINGS, CA 92262

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

ERIC J. AUFDENGARTEN, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on July 27, 2017.



Louisa Ayrapetyan
Case Administrator
State Bar Court