

PUBLIC MATTER

FILED
48
FEB 14 2019

STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

STATE BAR COURT OF CALIFORNIA

HEARING DEPARTMENT – LOS ANGELES

In the Matter of)	Case Nos. 16-O-10267-CV;
)	16-C-17296;
GARFIELD LANGMUIR-LOGAN,)	16-C-17297
)	(Cons.)
A Licensed Attorney of the State Bar, No. 93106.))	
)	DECISION AND ORDER OF
)	INVOLUNTARY INACTIVE
)	ENROLLMENT

In this matter, respondent Garfield Langmuir-Logan (Respondent) was convicted of violating Vehicle Code sections 23152(a) (Driving Under the Influence of Alcohol with One Prior), and 23152(b) (Driving with Blood Alcohol Level of .08% or more with One Prior). Prior to these misdemeanor convictions, Respondent was convicted of violating Penal Code section 415(2) (Disturbing the Peace – Loud Noise), a misdemeanor. Respondent did not appeal these convictions. Upon finality of the convictions, the Review Department issued orders referring these two conviction matters to the Hearing Department for a hearing and decision as to whether the facts and circumstances surrounding the violations of which Respondent was convicted involved moral turpitude or other misconduct warranting discipline, and if so found, the discipline to be imposed.

Respondent was subsequently charged, in an unrelated matter, with violations of the Business and Professions Code and the State Bar Rules of Professional Conduct. This matter was ultimately consolidated with Respondent's two conviction matters.

Even though Respondent had notice of the trial date in his three consolidated matters, he failed to appear at trial, and his default was entered. The Office of Chief Trial Counsel of the State Bar of California (OCTC) 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 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 OCTC 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 November 29, 1979, and has been a member since then.

Procedural Requirements Have Been Satisfied

On July 26, 2016, Respondent was convicted of violating Vehicle Code sections 23152(a) (Driving Under the Influence of Alcohol with One Prior) and 23152(b) (Driving with Blood Alcohol Level of .08% or more with One Prior). On November 21, 2016, the OCTC transmitted records and evidence of finality of Respondent's convictions to the Review Department. On December 7, 2016, the Review Department referred this matter, case number 16-C-17296, to the Hearing Department for a hearing and decision recommending the discipline to be imposed in

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).)

the event that the facts and circumstances surrounding the convictions involved moral turpitude or other misconduct warranting discipline. The next day, the State Bar Court filed a Notice of Hearing on Conviction (NHC) regarding these violations. On December 20, 2016, the NHC was properly served on Respondent by certified mail, return receipt requested, at his membership records address.

On December 4, 2006, Respondent was convicted of violating Penal Code section 415(2) (Disturbing the Peace – Loud Noise), a misdemeanor. The OCTC transmitted records and evidence of finality of Respondent's Penal Code conviction to the Review Department on December 2, 2016.³ On January 13, 2017, the Review Department referred this matter, case number 16-C-17297, to the Hearing Department for a hearing and decision regarding discipline. On January 18, 2017, the State Bar Court filed and properly served a NHC on Respondent by certified mail, return receipt requested, at his membership records address.

Both of the NHCs, regarding case numbers 16-C-17296 and 16-C-17297, notified Respondent that his failure to appear at the State Bar Court trial would result in a disbarment recommendation. (Rule 5.345.) The signed return receipts for both NHCs were received by the State Bar.

On January 5, 2017, Respondent filed an answer to the NHC regarding the Vehicle Code convictions and appeared for the January 6, 2017 in-person status conference concerning this matter. On February 7, 2017, Respondent filed his response to the NHC concerning the Penal Code violation. He appeared for the February 13, 2017 in-person status conference. These two

³ Pursuant to court order filed on December 21, 2016, the OCTC filed a supplemental report on January 3, 2017, explaining that the ten year delay in transmitting Respondent's Penal Code conviction record was due to the OCTC discovering it on November 8, 2016, after a search was done for records concerning Respondent's Vehicle Code violations.

matters were consolidated pursuant to OCTC's unopposed motion to consolidate.⁴

On June 15, 2018, the OCTC filed and properly served a notice of disciplinary charges (NDC), in case number 16-O-10267, 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.)

Following Respondent substituting himself as counsel, *in pro per*, he filed a response to the NDC on July 11, 2018. He appeared for the July 27, 2018 status conference where the three matters were consolidated and trial was scheduled to commence on October 18, 2018. The order setting forth the trial date was filed and served on July 27, 2018, by first-class mail, postage paid, addressed to Respondent at the address Respondent expressly designated on his response to the NDC.

Initially, Respondent participated. However, as the proceedings progressed, he failed to file a pretrial statement and did not appear for the pretrial conference. On October 18, 2018, the OCTC 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 orders entering Respondent's default that same day.⁵ The orders notified Respondent that if he did not timely move to set aside or vacate his default, the court would recommend his disbarment. The orders also placed Respondent on involuntary inactive status under Business and Professions Code section 6007,

⁴ Both Respondent and his attorney appeared for the April 10, 2017 settlement conference where the cases were abated. During the time this matter remained abated, Respondent and/or his attorney continued making in-person or telephonic appearances at status conferences held on July 17 and November 30, 2017; and on March 19, May 21, and June 25, 2018. The matters were unabated at the July 27, 2018 status conference.

⁵ Pursuant to rule 5.346(C)(2), when a default is entered in a criminal conviction proceeding for failure to appear at trial, the OCTC must recite the facts and circumstances surrounding the conviction that it contends warrant the imposition of discipline and that it has clear and convincing evidence to prove. The statement must be filed and served within five days after the default order is served. OCTC filed separate statements, both on October 19, 2018.

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 December 10, 2018, the OCTC properly filed and served a petition for disbarment. As required by rule 5.85(A), the OCTC reported in the petition that: (1) it has not had contact with Respondent since the entry of his default; (2) Respondent has no other disciplinary matters pending; (3) Respondent has a prior record of discipline; and (4) the Client Security Fund has not made payments resulting from 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 January 25, 2019.

Prior Record of Discipline

Respondent has been disciplined on one prior occasion. In State Bar Court number 06-O-13828, a private reproof with certain conditions was imposed on Respondent, pursuant to the approved stipulation filed on January 21, 2009. In that matter, Respondent stipulated to willfully failing to promptly release all client property upon termination of his employment.

The Admitted Factual Allegations Warrant the Imposition of Discipline

Upon entry of Respondent's default, the factual allegations set forth in Respondent's conviction matters and 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 Respondent's conviction matters and 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).)

Case Number 16-C-17296

In its statement of facts and circumstances, the OCTC asserted that Respondent's convictions of Vehicle Code section 23152 subdivisions (a) (Driving Under the Influence of Alcohol with One Prior) and (b) (Driving with a Blood Alcohol Content of .08 or Higher with One Prior) involved conduct warranting the imposition of discipline. Specifically, on October 24, 2015, a Laguna Beach Police officer noticed a vehicle driving along the shoulder of the roadway for several feet with one of its doors open. A female was standing outside the vehicle who appeared to be arguing with the driver. When the officer approached the driver, who was later identified as Respondent, he noticed Respondent's eyes were bloodshot and watery, and there was an odor of alcohol emanating from Respondent's breath. The officer administered a Preliminary Alcohol Screening (PAS) test on Respondent after poor performance on field sobriety tests. Respondent's first result was a .12 BAC. The second result was .00 BAC with a reading of "Low Volume" indicating insufficient air flow in the device to register a response. Respondent was arrested. He submitted to a PAS Evidential test. With both test results yielding a .12 BAC, Respondent was jailed. Following a jury trial in Orange County Superior Court on July 26, 2016, Respondent was convicted of violating Penal Code sections 23152(a) and 23152(b).

Case Number 16-C-17297

In its statement of facts and circumstances, the OCTC asserted that Respondent's Penal Code section 415(2) (Disturbing the Peace – Loud Noise) conviction involved conduct warranting the imposition of discipline. Specifically, on July 6, 2006, when an argument had ensued between Respondent and his estranged wife, she called 911 and requested law enforcement assistance. When the phone rang a few seconds later, Respondent pulled it off the wall, threw it across the room, and it broke into pieces. Respondent had left the wife's residence

moments before the Orange County Sherriff deputy arrived. On May 7, 2007, Respondent pled guilty to Penal Code section 415(2) (Disturbing the Peace – Loud Noise).

Case Number 16-O-10267

Count One – Respondent willfully violated Business and Professions Code section 6068, subdivision (o)(2) (failure to report judgment), by failing to report a civil judgment against him for financial abuse of an elder and breach of fiduciary duty, to the agency charged with attorney discipline, in writing, within 30 days of the time he had knowledge of the entry of the judgment.

Count Two – Respondent willfully violated Business and Professions Code section 6068, subdivision (a) (attorney’s duty to support Constitution and laws of United States and California) by engaging in financial elder abuse in violation of Welfare and Institutions Code section 15610.30.

Count Three – Respondent willfully violated Business and Professions Code section 6068, subdivision (a) (attorney’s duty to support Constitution and laws of United States and California) by suppressing and failing to disclose information, and misleading trustees and beneficiaries regarding trust property, in violation of Civil Code section 1709.

Count Four – Respondent willfully violated Business and Professions Code section 6106 (commission of act of moral turpitude, dishonesty or corruption) by taking property belonging to his clients’ trust for wrongful use or with intent to defraud, and failing to disclose and falsifying information to mislead his clients regarding trust property.

Count Five – Respondent willfully violated Business and Professions Code section 6106 (commission of act of moral turpitude, dishonesty or corruption) by repeatedly breaching his fiduciary duties as attorney-in-fact for a trust, failing to account, and engaging in self-dealing regarding trust property.

Count Six – Respondent willfully violated Business and Professions Code section 6068, subdivision (m) (failure to communicate significant developments), by failing to inform his clients that he transferred the alleged proceeds of his client’s trust to himself, his family and friends, and other entities that he controlled.

Count Seven – The OCTC failed to prove by clear and convincing evidence that Respondent willfully violated rule 4-100(B)(4) of the Rules of Professional Conduct (failing to promptly pay client funds).⁶ The court therefore dismisses this count with prejudice.

Count Eight – Respondent willfully violated rule 4-100(B)(3) of the Rules of Professional Conduct (failure to render appropriate accounts), by failing to render an appropriate accounting to his client trustee regarding the \$100,000 that he had received from his client trustees and beneficiaries to be invested into an entity that Respondent controlled.

Count Nine – Respondent willfully violated Business and Professions Code section 6106 (moral turpitude – misrepresentation) by providing written financial information to his client showing that trust property had been invested when Respondent knew or was grossly negligent in not knowing that the information was false and misleading.

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 NHCs and NDC were 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

⁶ The OCTC claims in the NDC that the Superior Court, in case number 30-2011-00468519, awarded \$207,220.79 in economic damages to the Trust based on its findings against Respondent for financial elder abuse, and that Respondent “failed to pay promptly any portion of the amount the Trust is entitled to in respondent’s possession.” It is unclear, however, which portion, if any, of this economic damages award constitutes client funds that the client was entitled to receive.

(4) the factual allegations in the NDC and pursuant to the NHCs, 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 Garfield Langmuir-Logan 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

It is further recommended 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.⁷ Failure to do so may result in disbarment or suspension.

Costs

It is further recommended 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. Unless the time for

⁷ For purposes of compliance with rule 9.20(a), the operative date for identification of "clients being represented in pending matters" and others to be notified is the filing date of the Supreme Court order, not any later "effective" date of the order. (*Athearn v. State Bar* (1982) 32 Cal.3d 38, 45.) Further, Respondent is required to file a rule 9.20(c) affidavit even if Respondent has no clients to notify on the date the Supreme Court filed its order in this proceeding. (*Powers v. State Bar* (1988) 44 Cal.3d 337, 341.) In addition to being punished as a crime or contempt, an attorney's failure to comply with rule 9.20 is, inter alia, cause for disbarment, suspension, revocation of any pending disciplinary probation, and denial of an application for reinstatement after disbarment. (Cal. Rules of Court, rule 9.20(d).)

payment of discipline costs is extended pursuant to subdivision (c) of section 6086.10, costs assessed against a member who is actually suspended or disbarred must be paid as a condition of reinstatement or return to active status.

ORDER OF INVOLUNTARY INACTIVE ENROLLMENT

In accordance with Business and Professions Code section 6007, subdivision (c)(4), the court orders that Garfield Langmuir-Logan, State Bar number 93106, 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: February 14, 2019



CYNTHIA VALENZUELA
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 Court Specialist 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 February 14, 2019, 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:

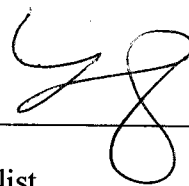
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

Garfield Langmuir-Logan
Logan Law, ALC
19800 Macarthur Blvd
Ste 300
Irvine, CA 92612-2479

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

R. Kevin Bucher, Enforcement Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on February 14, 2019.



Paul Songco
Court Specialist
State Bar Court