

PUBLIC MATTER

FILED

JUL 14 2017 *W*

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

STATE BAR COURT CLERK'S OFFICE
SAN FRANCISCO

In the Matter of)	Case Nos.: 16-O-10921 (16-O-13744;
)	16-O-14228)–LMA
DANIEL AMERICO BRUCE,)	
)	DECISION AND ORDER OF
A Member of the State Bar, No. 216514,)	INVOLUNTARY INACTIVE
)	ENROLLMENT
_____)	

In this matter, respondent Daniel Americo Bruce (Respondent) was charged with thirteen 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.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 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

Respondent was admitted to practice law in this state on December 3, 2001, and has been a member since then.

Procedural Requirements Have Been Satisfied

On November 21, 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 December 22, 2016, Respondent filed his response to the NDC. On January 30, 2017, Respondent appeared telephonically for a status conference.

On April 11, 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 June 5, 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 other disciplinary investigations pending; (3) Respondent has one prior record of discipline; 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 July 10, 2017.

Pursuant to a Supreme Court order filed on December 8, 2015, in case No. S229697 (State Bar Court case No. 14-O-04644), Respondent was suspended for two years, the execution of which was stayed, and he was placed on probation for two years, including a sixty-day period of actual suspension. In this matter, Respondent stipulated to nine counts of misconduct, including holding himself out as entitled to practice law and actually practicing law while not an active member of the State Bar (UPL), moral turpitude (related to Respondent's UPL), and failing to cooperate with a disciplinary investigation.

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 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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Count One – Respondent willfully violated Business and Professions Code section 6068, subdivision (a) (failure to comply with all laws – unauthorized practice) by holding himself out as entitled to practice law and actually practicing law when he was not an active member of the State Bar, in willful violation of Business and Professions Code sections 6125 and 6126.

Count Two – Respondent willfully violated Business and Professions Code section 6106 (moral turpitude) by holding himself out as entitled to practice law and actually practicing law when he knew or was grossly negligent in not knowing he was not an active member of the State Bar.

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

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Count Four – Respondent willfully violated Business and Professions Code section 6103 (failure to obey a court order) by failing to comply with a December 2, 2014 order in *Mayer v. Lowery*, Madera County Superior Court case No. MCV 068950.

Count Five – Respondent willfully violated Business and Professions Code section 6103 (failure to obey a court order) by failing to comply with an April 1, 2015 order in *Mayer v. Lowery*, Madera County Superior Court case No. MCV 068950.

Count Six – Respondent willfully violated Business and Professions Code section 6103 (failure to obey a court order) by failing to comply with a May 4, 2015 order in *Mayer v. Lowery*, Madera County Superior Court case No. MCV 068950.

Count Seven – Respondent willfully violated Business and Professions Code section 6103 (failure to obey a court order) by failing to comply with an August 19, 2015 order in *Mayer v. Lowery*, Madera County Superior Court case No. MCV 068950.

Count Eight – Respondent willfully violated Business and Professions Code section 6103 (failure to obey a court order) by failing to comply with a December 10, 2015 order in *Mayer v. Lowery*, Madera County Superior Court case No. MCV 068950.

Count Nine – Respondent willfully violated Business and Professions Code section 6103 (failure to obey a court order) by failing to comply with a March 29, 2016 order in *Mayer v. Lowery*, Madera County Superior Court case No. MCV 068950.

Count Ten – Respondent willfully violated Business and Professions Code section 6068, subdivision (o)(3) (failure to report judicial sanctions) by failing to timely report to the State Bar judicial sanctions against Respondent in the amount of \$1,000.

Count Eleven – Respondent willfully violated Business and Professions Code section 6068, subdivision (o)(3) (failure to report judicial sanctions) by failing to timely report to the State Bar judicial sanctions against Respondent in the amount of \$1,100.

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

Count Thirteen – Respondent willfully violated Business and Professions Code section 6068, subdivision (k) (failure to comply with conditions of probation), by failing to timely: (1) contact the Office of Probation to schedule a meeting; (2) meet with the Office of Probation; and (3) submit three quarterly reports.

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 Daniel Americo Bruce 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 Daniel Americo Bruce, State Bar number 216514, 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 14, 2017



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 July 14, 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:

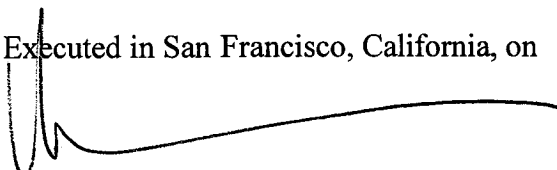
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

DANIEL A. BRUCE
LAW OFFICES OF DANIEL A. BRUCE
1113 S QUALITY AVE
SANGER, CA 93657 - 9302

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

Britta G. Pomrantz, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on July 14, 2017.



Vincent Au
Case Administrator
State Bar Court