

PUBLIC MATTER

FILED

MAY 28 2019

**STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES**

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

In the Matter of) Case No.: 17-J-04120-YDR
)
)
PAUL LARS HENDERSON III,) **DECISION AND ORDER OF**
) **INVOLUNTARY INACTIVE**
) **ENROLLMENT**
)
State Bar Number 69910.)

On March 7, 2017, a three-attorney disciplinary trial panel for the Oregon Supreme Court disciplined respondent Paul Lars Henderson III (Respondent) for professional misconduct committed in Oregon.¹ As a result, the Office of Chief Trial Counsel of the State Bar of California (OCTC) initiated this expedited, streamlined disciplinary proceeding against Respondent in California. (Cal. Bus. & Prof. Code, § 6049.1;² Rules Proc. of Cal. State Bar, rule 5.350 et seq.)

Under California section 6049.1, a certified copy of a final order made by any court of record or a body authorized by law or rule of court to conduct disciplinary proceedings against

¹ Respondent has not been entitled to practice law in the State of California for more than 28 years. Respondent has been enrolled inactive since January 1, 1991. Inactive attorneys cannot lawfully practice law. In addition, Respondent has been suspended from the practice of law under a Supreme Court order since August 16, 1993, because he has not paid his annual State Bar fees since the year 1992.

² All further references to California sections (or Cal. §) are to the California Business and Professions Code.



attorneys of the United States or of any state or territory of the United States or of the District of Columbia determining that an attorney licensed to practice law in California committed professional misconduct in such other jurisdiction is, subject to the exceptions set forth *post*, conclusive evidence that that the attorney is culpable of professional misconduct in California. Such a final order is not conclusive evidence of an attorney's misconduct in California if the attorney establishes (1) that the misconduct found in the final order would not warrant the imposition of discipline in California under the laws and rules of California in effect at the time of the misconduct or (2) that the disciplinary proceedings in the other jurisdiction lacked fundamental constitutional protection.

Respondent failed to participate in this California State Bar Court proceeding either in person or through counsel, and his default was entered. Thereafter, OCTC filed a petition for disbarment under Rules of Procedure of the California State Bar, rule 5.85, which sets forth the procedures that are to be followed when an attorney fails to participate in a State Bar Court 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 (NDC), and the attorney fails to have the default set aside or vacated within 90 days, OCTC will file a petition requesting that the State Bar Court recommend the attorney's disbarment.³

In the instant case, the court concludes that the requirements of Rules of Procedure of the California State Bar, rule 5.85 have been satisfied and, therefore, grants the petition and recommends that Respondent be disbarred from the practice of law in California.

³ If the State Bar 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. (Rules Proc. of Cal. State Bar, rule 5.85(F)(2).)

FINDINGS AND CONCLUSIONS

Respondent was admitted to the practice law in this state on December 6, 1976, and has been licensed to practice law in the State of California since that time.⁴

Procedural Requirements Have Been Satisfied

On August 8, 2018, OCTC filed and properly served the NDC in this proceeding on Respondent by certified mail, return receipt requested, at his official State Bar records address, which is in Medford, Oregon. The NDC notified Respondent that his failure to participate in the proceeding would result in a disbarment recommendation. (Rules Proc. of Cal. State Bar, rule 5.41(B)(5).) On August 8, 2018, OCTC also mailed courtesy copies of the NDC to Respondent at his official State Bar records address and at three alternative addresses that OCTC has for Respondent by first class mail, regular delivery. On August 16, 2018, the copy of the NDC that OCTC served on Respondent was returned undelivered and marked "Return to Sender No longer at This Address."

Thereafter, OCTC undertook the following actions in an attempt to provide Respondent with actual notice of this proceeding: (1) attempted to contact Respondent by telephone at Respondent's official State Bar record telephone number and at another telephone number OCTC has for Respondent; (2) emailed a courtesy copy of the NDC to Respondent at an email address that OCTC has for Respondent; (3) conducted a search for Respondent's address and telephone number on LexisNexis and obtained two additional possible telephone numbers and email addresses for Respondent and attempted to contact him by calling those two numbers and by sending courtesy copies of the NDC to Respondent at those two email addresses; (4) contacted the company that manages the office building where Respondent had his law office and learned that Respondent has not been a tenant in the building for a number of years and that

⁴ As noted *ante* in footnote 1, Respondent's license to practice law in California has been inactive and suspended for more than 28 years.

the management company did not have a forwarding address for Respondent; and (5) went through the record in the Oregon disciplinary proceeding to see if it contained any additional telephone numbers or addresses for Respondent.⁵

Respondent failed to file a response to the NDC. Thus, on October 11, 2018, OCTC filed and properly served a motion for entry of default on Respondent at his official State Bar records address by certified mail, return receipt requested. The motion complied with all the requirements for a default, including a supporting declaration of reasonable diligence by the assigned Deputy Trial Counsel setting forth the foregoing additional steps that he and OCTC took in an attempt to provide Respondent with actual notice of this proceeding before the entry of his default. (Rules Proc. of Cal. State Bar, 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 for entry of default or to the NDC, and his default was properly entered on November 2, 2018. The order entering default was properly served on Respondent at his official State Bar records address by certified mail, return receipt requested. However, on November 13, 2108, the order was returned undelivered to the State Bar Court marked "Return to Sender [X] Refused [X] Unable to Forward."

In the order entering default, the court also ordered that Respondent be involuntarily enrolled inactive under California section 6007, subdivision (e), effective three days after service of the order. Respondent has continuously been enrolled inactive under that order since that time.

⁵ According to OCTC, the Oregon record contains a declaration from an Oregon Assistant Disciplinary Counsel (ADC) in which the ADC states that, in December 2016, Respondent told him that Respondent's wife became ill in September 2015 and that Respondent stopped practicing law to take care of her full-time.

Respondent did not seek to have his default set aside or vacated. (Rules Proc. of Cal. State Bar, rule 5.83(C)(1) [attorney has 90 days to file motion to set aside default].) On February 25, 2019, OCTC properly filed and served a petition for disbarment after default on Respondent at his official State Bar record address by certified mail, return receipt requested.

As required by rule 5.85(A) of the Rules of Procedure of the California State Bar, OCTC reported in the petition that: (1) Respondent failed to contact OCTC after Respondent's default was entered in the present matter; (2) there are no other disciplinary matters pending against Respondent in California; (3) Respondent has no prior record of discipline in California; and (4) the California Client Security Fund has not made payments resulting from Respondent's conduct. Respondent did not respond to the petition for disbarment or move to set aside or vacate the default. The court took the matter under submission for decision on April 24, 2019.

The Factual Allegations Deemed Admitted by Default Warrant the Imposition of Discipline

Under California section 6088 and rule 5.82 of the Rules of Procedure of the California State Bar, the factual allegations set forth in the NDC are deemed admitted by the entry of Respondent's default. The NDC alleges that "[o]n ... March 7, 2017, the Oregon Trial Panel ordered that respondent be disciplined upon findings that respondent had committed professional misconduct in that jurisdiction as set forth in the Trial Panel Opinion. Thereafter, the decision of the foreign jurisdiction became final. [¶] A certified copy of the final order of disciplinary action of the foreign jurisdiction is attached, as Exhibit 1, and incorporated by reference."

The NDC further alleges that "Respondent's culpability as determined by the foreign jurisdiction indicates that the following California statutes or rules have been violated or warrant the filing of this Notice of Disciplinary Charges: California Business and Professions Code

sections 6068(m) and 6068(i); California Rules of Professional Conduct [former] rules 3-110(A), 3-700(B)(2), 3-700(D)(1), and 3-700(D)(2).”⁶

The foregoing admitted factual allegations support a finding that Respondent is culpable of willfully violating California section 6068, subdivision (m) (failure to communicate); California section 6068, subdivision (i) (failure to cooperate in a disciplinary investigation); former California rule 3-110(A) (failure to competently perform legal services); former California rule 3-700(B)(2) (failure to withdraw when continued employment with result in violation of the Rules of Professional Conduct or the State Bar Act); former California rule 3-700(D)(1) (failure to return client papers and property as requested); and former California rule 3-700(D)(2) (failure to refund unearned fees). Therefore, the factual allegations in the NDC admitted by default “support a finding that [Respondent] violated a statute, rule or court order that would warrant the imposition of discipline.” (Rule 5.85(F)(1)(d).)

Disbarment is Appropriate Under Rules of Procedure of California State Bar

In light of the foregoing facts, the court concludes that the requirements of rule 5.85(F) have been satisfied and that Respondent’s disbarment should be recommended. In particular:

- (1) the NDC was properly served on Respondent under rule 5.25;
- (2) reasonable diligence was used to notify Respondent of this proceeding before his default was entered;
- (3) Respondent’s default was properly entered under rule 5.80; and
- (4) the factual allegations in the NDC deemed admitted by the entry of Respondent’s default support a finding that Respondent violated a statute, rule, or court order that would warrant the imposition of discipline.

⁶ The California State Bar Rules of Professional Conduct were revised effective November 1, 2018.

Despite adequate notice and opportunity, Respondent failed to participate in this disciplinary proceeding. Thus, in accordance with the Rules of Procedure of the California State Bar, the court recommends his disbarment.

RECOMMENDATIONS

Disbarment

The court recommends that respondent Paul Lars Henderson III (Respondent) 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 California Business and Professions Code section 6086.10, and that the costs be enforceable both as provided in California Business and Professions Code section 6140.7 and as a money judgment.

ORDER OF INVOLUNTARY INACTIVE ENROLLMENT

In accordance with California Business and Professions Code section 6007, subdivision (c)(4), the court orders that Paul Lars Henderson III, State Bar number 69910, be involuntarily enrolled as an inactive effective three calendar days after the service of this decision and order by mail. (Rules Proc. of Cal. State Bar, rule 5.111(D).)

Dated: May 24, 2019



YVETTE D. ROLAND
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 May 28, 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:

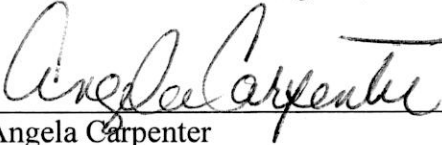
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

PAUL LARS HENDERSON III
10 CRATOR LAKE AVE #2
MEDFORD, OR 97504

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

JOSEPH A. SILVOSO III, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on May 28, 2019.



Angela Carpenter
Court Specialist
State Bar Court