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JAN 24 2018

**STATE BAR COURT
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LOS ANGELES**

PUBLIC MATTER

STATE BAR COURT OF CALIFORNIA

HEARING DEPARTMENT – LOS ANGELES

In the Matter of

JEFFREY ALAN DICKSTEIN,

Member No. 70638

A Member of the State Bar.

) Case No.: **17-N-00495-YDR**

)
) **DECISION AND ORDER OF**
) **INVOLUNTARY INACTIVE**
) **ENROLLMENT**

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Respondent Jeffrey Alan Dickstein (Respondent) was charged with failing to comply with California Rules of Court, rule 9.20(c). He did not file a response to the notice of disciplinary charges (NDC), 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 NDC, 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

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).)

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 December 22, 1976, and has been a member since then.

Procedural Requirements Have Been Satisfied

On June 5, 2017, the State Bar filed and properly served the NDC on Respondent by certified mail, return receipt requested, at his membership records address. The NDC notified Respondent that his failure to participate in the proceeding would result in a disbarment recommendation. (Rule 5.41.)

Respondent had actual notice of this proceeding. He filed an Emergency Motion for Injunction Pending Appeal with the United States Court of Appeals for the Ninth Circuit.³ In that motion, Respondent acknowledged that: (1) he was served with the present NDC on June 5, 2017; (2) he was required to respond to the NDC within 20 days of service or be held in default; and (3) he had been ordered to appear for the initial status conference in this proceeding.

Respondent thereafter failed to appear for the initial status conference and failed to file a response to the NDC. On July 12, 2017, 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 State Bar deputy trial counsel declaring the additional steps taken to provide notice to Respondent. (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

³ There is no indication that this motion was granted by the United States Court of Appeals.

was entered on August 11, 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, 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 December 8, 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) it has had no contact with Respondent since the default was entered; (2) Respondent has no other disciplinary matters pending; (3) Respondent has a prior record of discipline; and (4) the Client Security Fund (CSF) has not paid out any claims resulting from Respondent's conduct. 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 16, 2018.

Respondent has been disciplined on two prior occasions. Pursuant to a Supreme Court order filed on November 10, 2015, Respondent was suspended for one year, the execution of which was stayed, and he was placed on probation for two years, including a 30-day period of actual suspension. In this matter, Respondent was found culpable of misconduct relating to his misdemeanor contempt conviction in federal district court.

Pursuant to a Supreme Court order filed on October 19, 2016, Respondent's probation was revoked and he was suspended for a minimum of one year and until he provides proof to the State Bar Court of his rehabilitation, fitness to practice, and present learning and ability in the general law. In this matter, Respondent was found culpable of failing to comply with the terms of his disciplinary probation. Respondent did not participate in the proceedings.

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, subd. (F)(1)(d).)

Case Number 17-N-00495 (Rule 9.20 Matter)

Count One – Respondent violated California Rules of Court, rule 9.20 (duties of disbarred, resigned, or suspended attorneys) by failing to file proof of compliance as required by rule 9.20(c) as ordered by the Supreme Court in its October 19, 2016 Order.

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 5.80; 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 actual 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.

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RECOMMENDATION

Disbarment

The court recommends that respondent Jeffrey Alan Dickstein be disbarred from the practice of law in the State of California and that his name be stricken from the roll of attorneys.

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.

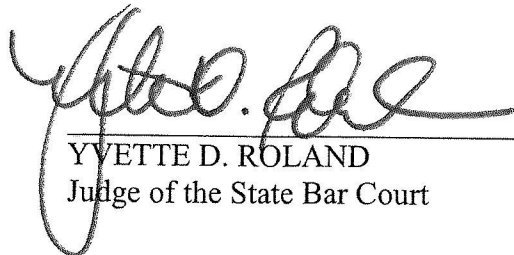
Costs

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 Jeffrey Alan Dickstein, State Bar number 70638, 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. (Rules Proc. of State Bar, rule 5.111(D).)

Dated: January 23, 2018



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 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 January 24, 2018, 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:

JEFFREY ALAN DICKSTEIN
JEFFREY A. DICKSTEIN
3263 S ERIE AVE
TULSA, OK 74135

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

Esther Fallas, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on January 24, 2018.



Angela Carpenter
Case Administrator
State Bar Court