

PUBLIC MATTER

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DEC 17 2018

STATE BAR COURT OF CALIFORNIA

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HEARING DEPARTMENT – SAN FRANCISCO

In the Matter of)	Case No.: 17-O-00213-MC
)	
ROBERT CHRISTIAN CRANE,)	
)	DECISION AND ORDER OF
A Member of the State Bar, No. 197667.)	INVOLUNTARY INACTIVE
)	ENROLLMENT
_____)	

Respondent Robert Christian Crane (Respondent) was charged with four counts of misconduct in violation of the California Rules of Professional Conduct and the Business and Professions Code. Respondent failed to file a response to the Notice of Disciplinary Charges (NDC) in this matter 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 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 OCTC 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

Jurisdiction

Respondent was admitted to practice law in this state on December 1, 1998, and has been a member since then.

Procedural Requirements Have Been Satisfied

On May 18, 2018, the OCTC properly served the NDC on Respondent by certified mail, return receipt requested, and by U.S. first-class mail, at his membership records address. A courtesy copy was sent by e-mail to Respondent's official membership e-mail address³, as well as to two additional e-mail addresses known to the State Bar. The NDC was filed with the State Bar Court on the same date. The NDC notified Respondent that his failure to participate in the proceeding would result in a disbarment recommendation. (Rule 5.41.) A search of the certified letter's tracking number using the U.S. Postal Service website described this letter as being "In transit to Next Facility" and the certified mail was described as "Unable to deliver item, problem with address." The return receipt for this letter was not returned to the State Bar. The courtesy copy of the NDC that was sent by regular first-class mail was returned by the U.S. Postal Service as undeliverable. The e-mail was not returned as undeliverable.

A May 31, 2018 LexisNexis search by Deputy Trial Counsel Peter A. Klivans (DTC Klivans) did not reveal a more current address for Respondent than his membership records address.

³ Effective February 1, 2010, all attorneys are required to maintain a current e-mail address to facilitate communications with the State Bar. (Cal. Rules of Court, rule 9.7(a)(2).)

On June 12, 2018, DTC Klivans attempted to reach Respondent at his membership records telephone number. A recorded message indicated that the number was disconnected. That same day, DTC Klivans called another number known to the State Bar, listed as “Private Information – For Internal Bar Use Only,” and left a voice message that an NDC was served at Respondent’s membership records address.

Discovering that Respondent was charged with misdemeanors in Placer County Superior Court, communication between DTC Klivans and a Placer County Assistant District Attorney on June 12, 2018, revealed another address that Respondent had provided to law enforcement personnel. Thereafter, a courtesy copy of the NDC was served by first-class mail, to this address, as well.⁴

Nevertheless, Respondent failed to file a response to the NDC. On June 14, 2018, the OCTC 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 notified Respondent that, if he did not timely move to set aside his default, the court would recommend his disbarment. This motion was sent by certified mail, return receipt requested, addressed to Respondent at his membership records address.

Respondent did not file a response to the motion and his default was entered on July 3, 2018. The court also ordered Respondent’s involuntary inactive enrollment as a member of the State Bar pursuant to 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. The order entering the default and enrolling Respondent inactive was served by certified mail, return

⁴ OCTC’s declaration contains an apparent typographical error stating that the courtesy copy was sent on January 13, 2018.

receipt requested, addressed to Respondent at his membership records address. On July 23, 2018, the return receipt was received by the State Bar, signed by T. Cruz.

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 October 15, 2018, the OCTC properly filed and served a petition for disbarment on Respondent.⁵ As required by rule 5.85(A), the OCTC reported in the petition that: (1) Respondent has not contacted the OCTC since the entry of his default; (2) there are no other investigations or disciplinary matters pending against Respondent; (3) Respondent does not have a record of prior discipline; and (4) the Client Security Fund has not paid out any claims as a result of 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 November 26, 2018.

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(2).) As set forth below in greater detail, the factual allegations in the NDC support the conclusion that Respondent is culpable as charged and, therefore, except as otherwise noted, violated a statute, rule, or court order that would warrant the imposition of discipline. (Rule 5.85(F)(1)(d).)

Case No. 17-O-00213 (The Harris matter)

Count One – The OCTC failed to prove by clear and convincing evidence that Respondent willfully violated Business and Professions Code section 6068, subdivision (m) (failure to respond promptly to status inquires), as insufficient evidence was provided as to the

⁵ The petition for disbarment was served by certified mail, return receipt requested, as well as by first-class mail, postage paid, addressed to Respondent at his membership records address.

quantity and manner of the status inquiries made by Respondent's client. The court therefore dismisses this count with prejudice.

Count Two – Respondent willfully violated rule 3-110(A) of the Rules of Professional Conduct (failing to perform legal services with competence), by failing to assist co-counsel with discovery, failing to prepare his client's case for trial, failing to attend a court hearing, and failing to communicate with co-counsel and his client.

Count Three – Respondent willfully violated rule 3-700(A)(2) of the Rules of Professional Conduct (improper withdrawal), by failing to inform his client he was constructively terminating his employment.

Count Four – Respondent willfully violated Business and Professions Code section 6068, subdivision (i) (failure to cooperate with a disciplinary investigation), by failing to provide a substantive response to the OCTC's letters which he received that requested his response to the allegations of misconduct in this matter.

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.

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

It is recommended that Robert Christian Crane, State Bar Number 197667, be disbarred from the practice of law in 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 imposing discipline in this proceeding.⁶ 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, and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment. Unless the time for payment of discipline costs is extended pursuant to subdivision (c) of section 6086.10, costs

⁶ 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).)

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 Robert Christian Crane, State Bar number 197667, 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: December 17, 2018


MANJARI CHAWLA
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 San Francisco, on December 17, 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:

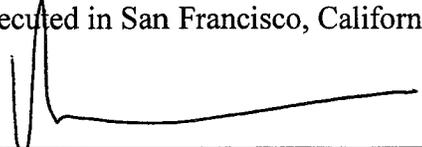
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

ROBERT C. CRANE
CRANE LAW OFFICE
5406 CROSSINGS DR.
SUITE 102-385
ROCKLIN, CA 95677

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

Peter A. Klivans, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on December 17, 2018.



Vincent Au
Court Specialist
State Bar Court