

**PUBLIC MATTER**

**FILED**

**JUL 08 2015**

STATE BAR COURT CLERK'S OFFICE  
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**STATE BAR COURT OF CALIFORNIA  
HEARING DEPARTMENT – SAN FRANCISCO**

In the Matter of	)	Case Nos.: <b>13-O-17121-PEM</b>
	)	
<b>DAVID SPRINGFIELD,</b>	)	<b>DECISION AND ORDER OF</b>
	)	<b>INVOLUNTARY INACTIVE</b>
<b>Member No. 226630,</b>	)	<b>ENROLLMENT</b>
	)	
<u>A Member of the State Bar.</u>	)	

Respondent David Springfield is charged with a total of three violations of the Business and Professions Code and the Rules of Professional Conduct in connection with a single client matter. Respondent failed to appear at the trial, and his default was entered. Thereafter, the Office of the Chief Trial Counsel (State Bar) filed a petition for disbarment under rule 5.85 of the Rules of Procedure of the State Bar.<sup>1</sup>

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 if the attorney fails to have the default set aside or

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<sup>1</sup> Unless otherwise indicated, all further references to rules are to the Rules of Procedure of the State Bar of California.

vacated within 45 days, then the State Bar will file a petition requesting that the State Bar Court recommend the attorney's disbarment.<sup>2</sup>

In the instant case, the court concludes that all of 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 the practice of law in California on November 25, 2003, and has been a member of the State Bar of California since that time.

#### **Procedural Requirements Have Been Satisfied**

On October 9, 2014, the State Bar filed and properly served the notice of disciplinary charges (NDC) on respondent at his membership-records address by certified mail, return receipt requested. Respondent filed an answer to the NDC on November 3, 2014.

At a status conference on November 17, 2014, a settlement conference was set for January 5, 2015, and the trial was set for February 4, 5, and 6, 2015, at 10:00 a.m. On November 17, 2014, the court filed a status conference order setting forth the forgoing settlement conference and trial dates in this matter. The order was properly served on respondent by first-class mail, postage prepaid, at the address provided in his response to the NDC, which is also respondent's membership-records address. (Rule 5.81(A)(2)(b)&(c).)

Respondent participated in the January 5, 2015 settlement conference. However, respondent failed to appear for trial on February 4, 2015. The State Bar appeared for trial. The court entered respondent's default in an order filed on February 4, 2015. The order was properly served on respondent at his membership-records address by certified mail, return receipt

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<sup>2</sup> If the court determines that any due process requirements is 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).)

requested. (Rule 5.81(B).) The order notified respondent that, if he did not timely move to set aside 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),<sup>3</sup> effective three days after service of the order, and respondent has remained inactively enrolled 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 March 27, 2015, the State Bar filed and properly served on respondent the petition for disbarment. As required by rule 5.85(A), the State Bar reported in the petition that: (1) at about 10:40 p.m. on February 4, 2015, the day respondent's default was entered, the State Bar received an email from respondent requesting to enter into a stipulation to disbarment; on February 5, and March 4, 2015, the State Bar responded to respondent's February 4, 2015 email; but respondent never replied to the State Bar's February 5, and March 4, 2015 responses; (2) there are currently 15 disciplinary investigations pending against respondent; (3) respondent has no prior record of discipline; and (4) the Client Security Fund 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 April 22, 2015.

#### **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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<sup>3</sup> All further statutory references are to the Business and Professions Code.

**Case Number 13-O-17121**

**Harash Matter**

Count One – charges that respondent willfully violated rule 4-100(A) of the Rules of Professional Conduct, which requires that an attorney deposit and maintain all client funds in a trust account. Count one is DISMISSED with prejudice because it fails to provide respondent with adequate notice of a rule 4-100(A) violation. (See *In the Matter of Glasser* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 163 [fundamental due process mandates that the NDC allege sufficient factual detail to provide the respondent with a reasonable opportunity to prepare and present a defense and to prevent the respondent from being taken by surprise by the evidence offered at trial.] )

Count Two – respondent willfully violated section 6106 (moral turpitude) by misappropriating, for his own purposes through gross negligence between about December 25, 2013, and February 19, 2014, \$58,499.02 from \$250,000 that respondent received and held in trust for his client Uri Harash.

Count Three – respondent willfully violated section 6068, subdivision (i) (failing to cooperate/participate in a disciplinary investigation) by not providing a substantive response to the State Bar's May 7, 2014 letter requesting that respondent respond to the allegations of misconduct being investigated in the Harash 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) respondent had actual notice of this proceeding and was properly given notice of the trial date before the entry of the 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 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 appear for 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 David Springfield, State Bar number 226630, be disbarred from the practice of law in the State of California and that his name be stricken from the roll of attorneys.

#### **Restitution**

The court further recommends that respondent David Springfield be ordered to make restitution to Uri Harash in the amount of \$58,499.02 plus 10 percent interest per year from February 19, 2014, or to the Client Security Fund to the extent of any payment from the fund to Uri Harash, plus interest and costs, in accordance with Business and Professions Code section 6140.5. Any restitution owed to the Client Security Fund is enforceable as provided in Business and Professions Code section 6140.5, subdivisions (c) and (d).

#### **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 and that the costs be 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 David Springfield, State Bar number 226630, 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: July 8, 2015.

  
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PAT McELROY  
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 8, 2015, 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:

DAVID SPRINGFIELD  
THE SPRINGFIELD LAW FIRM  
PO BOX 4260  
MALIBU, CA 90264

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

Susan I. Kagan, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on July 8, 2015.



Laurretta Cramer  
Case Administrator  
State Bar Court