

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – LOS ANGELES

In the Matter of)	Case No. 08-O-12944
)	
RONALD JEROME LEMIEUX,)	DECISION AND ORDER OF
)	INVOLUNTARY INACTIVE
Member No. 49077,)	ENROLLMENT
)	
A Member of the State Bar.)	
_____)	

Respondent Ronald Jerome LeMieux was charged with six counts of misconduct involving two different clients. He failed to appear at the trial of this case and his default was entered. The Office of the Chief Trial Counsel (State Bar) filed a petition for disbarment under the Rules of Procedure of the State Bar, rule 5.85.¹

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 90 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 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.

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(E)(2).)

FINDINGS AND CONCLUSIONS

Respondent was admitted to the practice of law in California on February 9, 1971, and has been a member of the State Bar since then.

Procedural Requirements Have Been Satisfied

On January 24, 2011, 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. 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 February 23, 2011, respondent filed his response to the NDC.

Trial was originally set for May 10, 2011, but was continued on respondent's motion to July 20, 2011, at 9:30 a.m. The order setting the new trial date was served on respondent at his membership records address by first class mail, postage paid. The State Bar appeared for trial but respondent did not. The State Bar called respondent three times between 9:30 a.m. and 11:00 a.m. on July 20 and left messages informing him that if he did not appear for the trial by 1:30 p.m. that day, the court would enter his default. Despite these additional efforts, respondent did not appear for the trial.

Finding that all of the requirements of rule 5.81(A) were satisfied, the court entered respondent's default by order filed July 20, 2011. 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 90 days after order entering default is served to file motion to set aside default].) On November

22, 2011, 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 does not have any other disciplinary matters pending against him; (3) respondent has a record of prior discipline; and (4) the Client Security Fund has not paid out any claims as a result of respondent's misconduct. Respondent has not responded to the petition for disbarment or moved to set aside or vacate the default.

Respondent has been disciplined on two prior occasions. In July 1993 he was suspended for three years, execution of which was stayed, and he was placed on probation for three years on conditions, including 30 days actual suspension. The misconduct in this prior case included failing to communicate with clients, failing to release client files, failing to perform competently, and failing to cooperate with the State Bar. In January 1996, respondent was suspended for three years, execution of which was stayed, and he was placed on probation for three years on conditions, including a minimum of four months actual suspension and until he made specified restitution. The misconduct in this prior case included failing to perform competently, failing to communicate with his clients, and failing to cooperate with the State Bar.

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.) In this case, the admitted acts show that respondent is culpable of the following as charged:

1. Case Number 08-O-12944 (Ngo Matter)

Count One – respondent violated rule 4-100(B)(3) of the Rules of Professional Conduct (failure to maintain records of client property/render appropriate accounts) by failing to provide an accounting to his client for \$9,250 in advanced attorney's fees he received.

Count Two – respondent violated rule 3-700(D)(3) of the Rules of Professional Conduct (failure to refund unearned fees) by failing refund \$4,000 in unearned fees to his client.

Count Three - respondent violated rule 3-700(D)(1) of the Rules of Professional Conduct (failure to release file) by failing to release the client’s file to the client upon termination from employment.

2. Case Number 09-O-17859 (Rodriguez Matter)

Count Four - respondent violated Business and Profession Code section 6106 (moral turpitude) by misrepresenting facts to his client.

Count Five – respondent violated rule 3-310(C)(1) of the Rules of Professional Conduct (avoiding representation of adverse interests) by representing multiple clients with potentially conflicting interests in a criminal matter without obtaining their informed written consent.

Count Six - respondent violated rule 3-700(D)(2) of the Rules of Professional Conduct (failure to refund unearned fees) by failing to refund \$15,000 in unearned fees to his client.

RECOMMENDATION

Disbarment

Having found that all of the requirements of rule 5.85(E) are satisfied, the court recommends that respondent Ronald Jerome LeMieux 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 be required to make restitution to Tony Tuan Ngo in the amount of \$4,000, plus interest of 10 percent per year from January 21, 2009; and (2) Luis Jesus Rodriguez in the amount \$15,000, plus interest of 10 percent per year from December 8,

2009; or reimburse the Client Security Fund to the extent of any payment from the Fund to these former clients, in accordance with Business and Professions Code section 6140.5.

Rule 9.20

The court also recommends that respondent be ordered to comply with the requirements of rule 9.20 of the California Rules of Court, 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 section 6086.10, such costs being enforceable both as provided in section 6140.7 and as a money judgment.

ORDER OF INVOLUNTARY INACTIVE ENROLLMENT

In accordance with section 6007, subdivision (c)(4), the court orders that Ronald Jerome LeMieux, State Bar Number 49077, 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: February _____, 2012

DONALD F. MILES
Judge of the State Bar Court