

STATE BAR COURT OF CALIFORNIA  
HEARING DEPARTMENT – LOS ANGELES

In the Matter of	)	Case No.: <b>12-O-12182-DFM</b>
	)	
<b>ERIC ALAN ROVANG,</b>	)	<b>DECISION AND ORDER OF</b>
	)	<b>INVOLUNTARY INACTIVE</b>
<b>Member No. 236835,</b>	)	<b>ENROLLMENT</b>
	)	
<u>A Member of the State Bar.</u>	)	

Respondent Eric Alan Rovang (Respondent) was charged with one count of misconduct. He failed to participate either in person or through counsel, and his default was entered. 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 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 notice of disciplinary charges (NDC) and the attorney fails to have the default set aside or vacated within 180 days, the State Bar will file a petition requesting the court to recommend the attorney’s disbarment.<sup>2</sup>

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<sup>1</sup> Unless otherwise indicated, all references to rules are to this source.

<sup>2</sup> 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).)

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 June 1, 2005, and has been a member since then.

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

On December 21, 2012, the State Bar filed and properly served the NDC on Respondent by certified mail, return receipt requested, to 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.) The NDC was later returned to the State Bar as unclaimed.

Thereafter, the State Bar (1) attempted to reach Respondent by calling his official membership records telephone number; (2) attempted to locate alternate telephone numbers for Respondent through the State Bar's computer records and the internet; (3) attempted to reach Respondent by calling a telephone number contained in the State Bar's case file; (4) called directory assistance for the area which included Respondent's official membership records address and asked for all the telephone listings for Respondent; (5) checked Parker's Directory for another address for Respondent; (6) sent an email to Respondent at [eric.rovang@verizon.net](mailto:eric.rovang@verizon.net); and (7) sent an email to Respondent at an alternate email address located on Respondent's website.

Respondent failed to file a response to the NDC. On February 13, 2013, the State Bar filed and properly served a motion for entry of default on Respondent by certified mail, return receipt requested, to his membership records address. 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 was entered on March 8, 2013. The order entering the default was properly 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. He has remained inactively enrolled since that time.

Respondent also did not seek to have his default set aside or vacated. (Rule 5.83(C)(1) [attorney has 180 days to file motion to set aside default].) On February 6, 2014, the State Bar filed and properly served the petition for disbarment on Respondent by certified mail, return receipt requested, to his membership records address.<sup>3</sup> As required by rule 5.85(A), the State Bar reported in the petition that (1) Respondent has not contacted the State Bar after his default was entered on March 8, 2013; and (2) there are two other disciplinary matters pending against Respondent.<sup>4</sup> 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 March 6, 2014.

### **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.) As set forth below in greater detail, the factual allegations in the NDC support the conclusion that

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<sup>3</sup> An earlier petition for disbarment filed by the State Bar was denied without prejudice.

<sup>4</sup> Despite the requirements of rule 5.85(A), the State Bar failed to affirmatively state (1) whether Respondent has a prior record of discipline and (2) whether the Client Security Fund has paid out claims as a result of Respondent's misconduct. After taking judicial notice of Respondent's official State Bar records, the court notes that Respondent has no prior record of discipline.

Respondent is culpable as charged and, therefore, violated a statute, rule or court order that would warrant the imposition of discipline. (Rule 5.85(E)(1)(d).)

**Case Number 12-O-12182**

Count One - Respondent willfully violated Rules of Professional Conduct, rule 4-100(A) (commingling personal funds in client trust account) by repeatedly issuing checks drawn upon Respondent's client trust account to pay his personal expenses.

**Disbarment is Recommended**

Based on the above, the court concludes that the requirements of rule 5.85(E) 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, as the State Bar (a) filed and properly served the NDC on Respondent by certified mail, return receipt requested, at his membership records address; (b) attempted to reach Respondent by calling his official membership records telephone number; (c) attempted to locate alternate telephone number through the State Bar's computer records and the internet; (d) attempted to reach Respondent by calling a telephone number contained in the State Bar's case file; (e) called directory assistance for the area which included Respondent's official membership records address and asked for all the telephone listings for Respondent; (f) checked Parker's Directory for another address for Respondent; and (g) sent email to Respondent at two different email addresses;
- (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.

### **RECOMMENDATION**

#### **Disbarment**

The court recommends that respondent Eric Alan Rovang 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 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 Eric Alan Rovang, State Bar number 236835, 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: April \_\_\_\_\_, 2014

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DONALD F. MILES  
Judge of the State Bar Court