

STATE BAR COURT OF CALIFORNIA  
HEARING DEPARTMENT – SAN FRANCISCO

In the Matter of ) Case Nos.: **13-O-14926-LMA**  
) (13-O-15014; 13-O-17511)  
**MICHAEL EUGENE LOGUE,** )  
) **DECISION AND ORDER OF**  
**Member No. 113724,** ) **INVOLUNTARY INACTIVE**  
) **ENROLLMENT**  
A Member of the State Bar. )  
\_\_\_\_\_ )

In this matter, respondent Michael Eugene Logue was charged with eight counts of misconduct stemming from three correlated matters. He failed to appear at the trial of this case and his default was entered. The Office of the 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.<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 the attorney fails to have the default set aside or vacated within 45 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(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 June 13, 1984, and has been a member since then.

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

On August 28, 2014, the State Bar filed and properly served a 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 September 22, 2014, respondent filed his response to the NDC. On October 6, 2014, respondent failed to appear in court for the initial status conference.

By order filed October 6, 2014, trial was set to begin on December 9, 2014. The order setting the trial date was properly served on respondent. (Rule 5.81(A).)

On December 9, 2014, the State Bar appeared for trial but respondent did not. Finding that all of the requirements of rule 5.81(A) were satisfied, the court issued and properly served an order entering respondent's default that same day. 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 45 days after order entering default is served to file motion to set aside default].)

On February 11, 2015, 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 communicated with respondent on the day his default was entered and informed him that his disbarment would be ordered if he failed to set aside the default; (2) respondent has other disciplinary matters pending in investigation; (3) respondent has no record of prior discipline; and (4) the Client Security Fund has not made any payments resulting from respondent's misconduct. Respondent has not responded to the petition for disbarment or moved to set aside or vacate the default. The case was submitted for decision on March 10, 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, except as otherwise noted, and, therefore, violated a statute, rule, or court order that would warrant the imposition of discipline. (Rule 5.85(F)(1)(d).)

#### **Case Number 13-O-15014 (The Denz Matter)**

Count One – respondent willfully violated Rules of Professional Conduct, rule 3-110(A) (failure to perform) by failing to: (1) make a claim against the defendant's professional liability insurance carrier; (2) file a civil action; and (3) make settlement demands.

Count Two – respondent willfully violated Business and Professions Code section 6068, subdivision (m) (failure to communicate significant developments), by failing to inform his client that: (1) the statute of limitations had expired; (2) respondent presented a no-fault general liability claim after the statute of limitations expired; (3) respondent settled the general liability claim; (4) respondent received a \$10,000 settlement check on his client's behalf; and (5) respondent endorsed the settlement check and collected attorney's fees.

Count Three – respondent willfully violated Business and Professions Code section 6106 (moral turpitude – misrepresentation) by knowingly or with gross negligence placing his client’s purported signature on a settlement check without authority; making false representations to the Medicare Secondary Payer Recovery Contractor; and making false representations to James Denz, a Los Altos police officer, and a State Bar investigator.

**Case Number 13-O-14926 (The Carranza Matter)**

Count Four – the court does not find respondent culpable of willfully violating Rules of Professional Conduct, rule 3-110(A) (failure to perform) as there is no clear and convincing evidence that respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence.<sup>3</sup>

Count Five – respondent willfully violated Business and Professions Code section 6068, subdivision (m) (failure to communicate significant developments), by failing to inform his client that: (1) the client’s claim was denied; (2) his client had six months after the denial to file a lawsuit; and (3) respondent did not file a lawsuit before the six-month statute of limitations expired.

**Case Number 13-O-17511 (The Alameda County Superior Court Matter)**

Count Six – respondent willfully violated Business and Professions Code section 6103 (failure to obey a court order) by failing to comply with the superior court’s orders to appear, show cause, and pay sanctions.

Count Seven – respondent willfully violated section 6068, subdivision (o)(3) (failure to report judicial sanctions), by failing to report a \$1,500 judicial sanction to the State Bar.

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<sup>3</sup> The State Bar merely alleged that respondent performed no legal services of value. This allegation is vague and arbitrary and does not establish, by clear and convincing evidence, that respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence.

Count Eight – respondent willfully violated Business and Professions Code section 6068, subdivision (i) (failure to cooperate with a State Bar investigation), by receiving and failing to substantively respond to a State Bar investigator’s letters seeking a response regarding allegations of misconduct.

**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, as he filed a response to the NDC and was properly served with notice of the trial date;
- (3) the default was properly entered under rule 5.81; and
- (4) the factual allegations in the NDC deemed admitted by the entry of 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 appear for the 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 Michael Eugene Logue 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 Michael Eugene Logue, State Bar number 113724, 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 \_\_\_\_\_, 2015

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LUCY ARMENDARIZ  
Judge of the State Bar Court