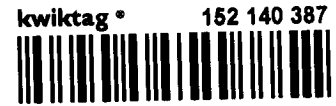


FILED
AUG 03 2012
STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

**STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – LOS ANGELES**



In the Matter of)	Case No.: 10-O-07616-DFM
)	
ASHKAN ALEX MOTAMEDI,)	ORDER VACATING DEFAULT AND
)	INVOLUNTARY INACTIVE ENROLLMENT
Member No. 228384,)	AND DENYING PETITION FOR
)	DISBARMENT AFTER DEFAULT
A Member of the State Bar.)	
_____)	

This matter is before the court on (1) the petition for disbarment after default that the Office of the Chief Trial Counsel of the State Bar of California (State Bar) filed on June 13, 2012, and (2) the motion to set aside or vacate default that respondent Ashkan Alex Motamedi made in his June 29, 2012 response to the State Bar's petition for disbarment. The State Bar filed an opposition to respondent's motion to set aside or vacate default.

In his motion to set aside or vacate default, respondent seeks to have his default vacated as improperly entered. (Rules Proc. of State Bar, rule 5.83(B).)¹ According to respondent, his default was improperly entered because the State Bar failed to properly serve, on him, a copy of either the September 9, 2011 notice of disciplinary charges (NDC) or the September 19, 2011 first amended notice of disciplinary charges (first amended NDC). The court agrees.

¹ All further references to rules are to the Rules of Procedure of the State Bar of California.

The State Bar did not serve a copy of the NDC or the first amended NDC on respondent at his official membership records address. Instead, it served copies of those pleadings only on Attorney James Lawrence Kellner at Attorney Kellner's address. The service of each of those two documents was invalid (1) because respondent never filed a notice of service on counsel that authorized the State Bar to serve respondent by serving Attorney Kellner (Bus. & Prof. Code, § 6002.1, subd. (c));² Rules Proc. of State Bar, rule 5.25(D)) and (2) because, notwithstanding the State Bar's representations to the contrary, Attorney Kellner is not, and has never been, respondent's attorney of record in the present proceeding (i.e., case number 10-O-07616-DFM).³

Furthermore, according to the court's official case file in this proceeding, respondent's first appearance in this proceeding was on June 29, 2012, when he filed his response to the State Bar's petition for disbarment in which he set forth his motion to set aside or vacate his default. Respondent's motion to set aside or vacate his default was timely file under rule 5.58(D).

Because the State Bar failed to properly serve a copy of the first amended NDC on respondent, respondent's default was improperly entered, and respondent was improperly enrolled as an inactive member of the State Bar under section 6007, subdivision (e). Accordingly, the court will vacate nunc pro tunc the entry of respondent's default and his involuntary inactive enrollment under section 6007, subdivision (e).

Finally, because the State Bar failed to properly serve a copy of the first amended NDC on respondent (rule 5.85(E)(1)(a)) and because respondent's default was improperly entered (rule 5.85(E)(1)(c)), the court must deny the State Bar's petition for disbarment (rule 5.85(E)(2)).

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² All further statutory references are to the Business and Professions Code.

³ At the time, however, Attorney Kellner was respondent's attorney of record in another State Bar Court proceeding.

ORDER

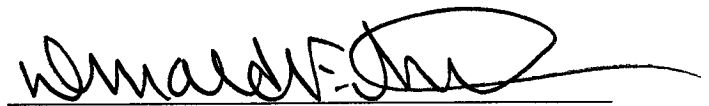
The court orders that respondent Ashkan Alex Motamedi's June 29, 2012 motion to set aside or vacate default is GRANTED and that the court's December 7, 2011 order entering respondent Ashkan Alex Motamedi's default and involuntary enrolling him inactive under section 6007, subdivision (e) is VACATED nunc pro tunc effective December 7, 2011.⁴

Further, the court orders that the State Bar's June 13, 2012 petition for disbarment after default is DENIED.

The State Bar must serve a copy of the first amended notice of disciplinary charges on respondent within 10 days after the service of this order by mail. Respondent must then file a timely response thereto.

All parties and their counsel are ordered to appear in person for an initial status conference in this matter on August 20, 2012, at 2:00 p.m., at which time the matter will be given a trial date.

Dated: August 2, 2012.



DONALD F. MILES
Judge of the State Bar Court

⁴ This order does not affect respondent's ineligibility to practice law that has resulted or that may hereafter result from any other cause.

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 Los Angeles, on August 3, 2012, I deposited a true copy of the following document(s):

ORDER VACATING DEFAULT AND INVOLUNTARY INACTIVE ENROLLMENT AND DENYING PETITION FOR DISBARMENT AFTER DEFAULT

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 Los Angeles, California, addressed as follows:

ASHKAN ALEX MOTAMEDI
25302 LAS BOLSAS
LAGUNA HILLS, CA 92653

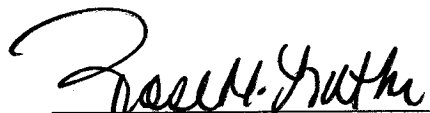
Courtesy Copy:

JAMES LAWRENCE KELLNER
350 CRENSHAW BLVD #A207/A
TORRANCE, CA 90503 - 1726

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

HUGH RADIGAN, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on August 3, 2012.



Rose Luthi
Case Administrator
State Bar Court