

STATE BAR COURT OF CALIFORNIA  
HEARING DEPARTMENT – LOS ANGELES

In the Matter of	)	Case No.: 12-N-11134-DFM
	)	
EDGAR JAMES STEELE,	)	DECISION AND ORDER OF
	)	INVOLUNTARY INACTIVE
Member No. 104928,	)	ENROLLMENT
	)	
<u>A Member of the State Bar.</u>	)	

Respondent Edgar James Steele (Respondent) was charged with willfully violating Business and Professions Code section 6103 [duty to obey court order] by willfully disobeying or violating a court order requiring compliance with California Rules of Court, rule 9.20. 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),

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

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>

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 December 3, 1982, and has been a member since then.

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

On May 31, 2012, the State Bar filed and properly served the NDC in case No. 12-N-11134 on Respondent by certified mail, return receipt requested, and by first-class mail, 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 returned to the State Bar by the United States Postal Service (USPS) stamped "Unclaimed" and "Undeliverable as Addressed."

Thereafter, the State Bar attempted to notify Respondent of these proceedings by (1) telephoning Respondent's official membership records telephone number; (2) telephoning directory assistance for the area which includes Respondent's official membership records address; (3) checking Parker's directory; (4) conducting an internet person search; and (5) conducting an internet search of Respondent's name. The internet search of Respondent's name resulted in the deputy trial counsel learning that Respondent was at the Federal Penitentiary Victorville in Adelanto, California, as of June 19, 2012. The State Bar then

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<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).)

forwarded the NDC to Respondent at that penitentiary. The NDC sent to this address was not returned to the State Bar.

Respondent failed to file a response to the NDC. He also made no attempt to contact this court to seek an abatement of the matter due to his incarceration. On June 26, 2012, the State Bar filed and properly served a motion for entry of default on Respondent by certified mail, return receipt requested, and by first-class mail, to his membership records address. The motion was also served on Respondent by regular mail to the penitentiary 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 respond in any way to the motion, and his default was entered on July 20, 2012. The order entering the default was properly served on Respondent at his membership records address. The order was also served by first-class mail, postage fully prepaid, to Respondent at the penitentiary address. 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, and he has remained inactively enrolled since that time.

Respondent has not sought 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 April 15, 2013, the State Bar filed and properly served the petition for disbarment on Respondent by certified mail, return receipt requested, and by first-class mail, to his membership records address. The petition was also served on Respondent by regular mail to the penitentiary address. As required by rule 5.85(A), the State Bar reported in the petition that (1) the State Bar has not had any contact from Respondent since his default was entered on July 20, 2012; (2) there is a conviction matter (case

No. 11-C-14454) pending against Respondent; (3) Respondent does not have a record of prior discipline; and (4) the Client Security Fund has not made any payments 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 May 17, 2013.

### **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(E)(1)(d).)

#### **Case Number 12-N-11134 (Rule 9.20 Matter)**

Respondent willfully violated Business and Professions Code section 6103 [duty to obey court order] by failing to file a declaration of compliance with rule 9.20 in conformity with the requirements of rule 9.20(c), thereby violating the Review Department's September 23, 2011, order requiring compliance with California Rules of Court, rule 9.20.

### **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 (1) filed and properly served the NDC on Respondent by certified mail, return receipt requested, and by first-class mail, to his membership records address; (2) telephoned Respondent's official membership records telephone number;

(3) telephoned directory assistance for the area which includes Respondent's official membership records address; (4) checked Parker's directory; (5) conducted an internet person search; and (6) conducted an internet search of Respondent's name and thereafter forwarded the NDC to Respondent at an address at a federal penitentiary located as a result of that search;

(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 Edgar James Steele 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 **Edgar James Steele**, State Bar number 104928, 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: August \_\_\_\_\_, 2013

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DONALD F. MILES  
Judge of the State Bar Court