

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – LOS ANGELES

In the Matter of) Case No.: **12-N-17269-RAP**
)
PATRICK J. GRANNAN,) **DECISION AND ORDER OF**
) **INVOLUNTARY INACTIVE**
) **ENROLLMENT**
)
A Member of the State Bar.)

Respondent Patrick J. Grannan (respondent) was charged with willfully violating California Rules of Court, rule 9.20 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.¹

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.²

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).)

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

On November 20, 2012, the State Bar filed and properly served the NDC on respondent in consolidated case Nos. 12-O-13785; 12-N-17269 by certified mail, return receipt requested, and by U. S. 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 U. S. Postal Service returned the NDC sent by certified mail bearing the stamp “Return to Sender, Not Deliverable as Addressed, Unable to Forward.”³

Thereafter, the State Bar (1) attempted to reach respondent by telephone at his membership records telephone number; (2) sent an email to a private email address that was on file with the State Bar;⁴ (3) sent a copy of the NDC by first-class mail to two alternate addresses found through an internet search; and (4) contacted the probation deputy assigned to respondent to ascertain whether respondent’s profile contained any other address.

Respondent failed to file a response to the NDC. On January 22, 2013, 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 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

³ Declaration of Deputy Trial Counsel Kim Kasrelievich attached to the State Bar’s motion for entry of respondent’s default.

⁴ Effective February 1, 2010, all attorneys are required to maintain a current email address to facilitate communications with the State Bar. (Cal. Rules of Court, rule 9.7(a)(2).)

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 February 12, 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. The order was returned to the State Bar Court by the U.S. Postal Service marked "ATTEMPTED NOT KNOWN."

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 September 18, 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. As required by rule 5.85(A), the State Bar reported in the petition that (1) respondent has not contacted the State Bar since February 12, 2013, the date the order entering his default was filed and served; (2) there are other investigation(s) or disciplinary charge(s) pending against respondent; (3) respondent has a prior record of discipline;⁵ and (4) the Client Security Fund has paid out claim(s) as a result of respondent's misconduct. Respondent did not respond to the petition for disbarment or move to set aside or vacate the default.

⁵ The State Bar reported that respondent has two prior records of discipline. However, the court takes judicial notice, pursuant to Evidence Code section 452(d), that respondent has three prior records of discipline. The court admits into evidence the certified copies of respondent's prior record of discipline in Supreme Court matters S126954 (State Bar Court No. 02-O-15605, etc.) and S190514 (State Bar Court No. 08-O-12917, etc.) that are attached to the State Bar's September 18, 2013, petition for disbarment after default. In addition, the court takes judicial notice, pursuant to Evidence Code section 452(d), of the pertinent State Bar court records in Supreme Court matter S190514 (State Bar Court No. 12-PM-10988), admits them into evidence and directs the Clerk to include copies in the record of this case.

The case was submitted for decision on October 17, 2013. However, on January 8, 2014, the court filed an order tentatively finding respondent culpable of willfully violating California Rules of Court, rule 9.20(c), which finding alone would support a disbarment recommendation under rule 5.85(E)(1)(d). The court order therefore (1) vacated the submission of the consolidated proceeding; (2) severed case No. 12-O-13785 from case No. 12-N-17269; and (3) abated case No. 12-O-13785 pending the final disposition of case No. 12-N-17269. The court also ordered case No. 12-N-17269 submitted for decision as of January 8, 2014.

Respondent has three prior records of discipline. Pursuant to a Supreme Court order filed on October 21, 2004, respondent was suspended for two years, the execution of which was stayed, and he was placed on probation for three years subject to probation conditions. Respondent stipulated in this prior disciplinary matter to recklessly, repeatedly or intentionally failing to perform legal services with competence (four client matters) and failing to promptly release to a client, at the request of the client, all client papers and property.

Pursuant to a Supreme Court order filed on April 21, 2011, respondent was suspended for three years, the execution of which was stayed, and he was placed on probation for four years subject to conditions, including that he be suspended for the first 90 days of probation. Respondent stipulated in this prior disciplinary matter to recklessly, repeatedly or intentionally failing to perform legal services with competence (two client matters); failing to keep a client reasonably informed of significant developments (two client matters); failing to render appropriate accounts; failing to promptly refund unearned fees; failing to participate and cooperate in a disciplinary investigation (two client matters); moral turpitude for concealment and misrepresentation; and failing to promptly release to the client, at the client's request, upon termination of employment, all client property and papers.

Pursuant to a Supreme Court order filed on July 5, 2012, respondent's probation was revoked, and he was suspended for a minimum of three years and until he pays specified restitution and provides proof of his rehabilitation, fitness to practice, and learning and ability in the general law. Respondent did not participate in this disciplinary matter. The court found respondent culpable of violating specified conditions of probation.

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-16415 (Violation of Rule 9.20)

Respondent willfully violated California Rules of Court, rule 9.20 (duties of disbarred, resigned or suspended attorneys) by failing to file a declaration of compliance with rule 9.20 in conformity with the requirements of rule 9.20(c), thereby failing to timely comply with the provisions of the July 5, 2012, Supreme Court 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 (a) filed and properly served the NDC on respondent by certified mail, return receipt requested, and by U. S. first-class mail, to his membership records

address; (b) attempted to reach respondent by telephone; (c) sent an email to a private email address that was on file with the State Bar; (d) sent a copy of the NDC by first-class mail to two alternate addresses; and (4) contacted the probation deputy assigned to respondent to ascertain whether respondent's profile contained any other address;

(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 Patrick J. Grannan 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 Patrick J. Grannan, State Bar number 115693, 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: February 20, 2014

RICHARD A. PLATEL
Judge of the State Bar Court