

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – LOS ANGELES

In the Matter of)	Case Nos.: 13-O-14191-PEM
)	(13-O-15059; 13-O-16297)
MARK CHRISTOPHER TEUTON,)	
)	DECISION AND ORDER OF
Member No. 187433,)	INVOLUNTARY INACTIVE
)	ENROLLMENT
A Member of the State Bar.)	
_____)	

In this matter, respondent Mark Christopher Teuton was charged with seven counts of misconduct stemming from three separate 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.¹

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

¹ Unless otherwise indicated, all references to rules are to this source. A portion of the rules were revised on July 1, 2014. For the purposes of this decision, the court applies the current rules.

within 46 days, the State Bar will file a petition requesting the court to recommend the attorney's disbarment.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 December 10, 1996, and has been a member since then.

Procedural Requirements Have Been Satisfied

On March 25, 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 April 22, 2014, respondent emailed a courtesy copy of his response to the NDC to the court.³ On May 5, 2014, respondent telephonically appeared before the court at a status conference.

By order filed May 6, 2014, trial was set to begin on July 29, 2014. The order setting the trial date was properly served on respondent. (Rule 5.81(A).)

On July 29, 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

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(F)(2).)

³ A copy of this response was never filed with the court.

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 September 17, 2014, 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 has had no contact with respondent since the default was entered; (2) respondent has no 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 November 18, 2014.

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-14191 (The Johnson and Tipton Matter)

Count One – respondent willfully violated rule 3-110(A) of the Rules of Professional Conduct (failure to perform) by failing to appear on his clients' behalf at four different court appearances.

Count Two – respondent willfully violated Business and Professions Code section 6068, subdivision (m) (failure to respond to client inquiries) by failing to promptly respond to at least ten reasonable status inquiries made by his clients.

Count Three – the court does not find respondent culpable of willfully violating Business and Professions Code section 6068, subdivision (o)(3) (failure to report judicial sanction) as this charge is not supported by clear and convincing evidence.⁴

Count Four – respondent willfully violated Business and Professions Code section 6103 (failure to obey a court order) by failing to comply with a court order to pay sanctions.

Case Number 13-O-15059 (The Blank Matter)

Count Five – respondent willfully violated rule 3-700(A)(2) of the Rules of Professional Conduct (improper withdrawal from employment) by effectively withdrawing from employment without informing his client.

Count Six – respondent willfully violated Business and Professions Code section 6068, subdivision (m) (failure to respond to client inquiries) by failing to promptly respond to at least ten reasonable status inquiries made by his client.

Case Number 13-O-16297 (The Spousal and Child Support Matter)

Count Seven – respondent willfully violated Business and Professions Code section 6068, subdivision (o)(3) (failure to report judicial sanctions) by failing to report to the State Bar that respondent was sanctioned for failing to pay back spousal and child support, and thereby ordered to serve five days in county jail and perform 120 hours of community service.

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;

⁴ Business and Professions Code section 6068, subdivision (o)(3), requires an attorney to report judicial sanctions except for sanctions for failing to make discovery or for monetary sanctions of less than one thousand dollars. Count Three is silent as to why respondent was sanctioned, and it does not incorporate any of the other charging paragraphs. Consequently, Count Three has not been established by clear and convincing evidence.

(2) respondent had actual notice of the proceedings prior to the entry of his default, as he appeared in court 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 Mark Christopher Teuton 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.

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ORDER OF INVOLUNTARY INACTIVE ENROLLMENT

In accordance with Business and Professions Code section 6007, subdivision (c)(4), the court orders that Mark Christopher Teuton, State Bar number 187433, 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: January _____, 2015

Pat McElroy
Judge of the State Bar Court