

PUBLIC MATTER

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JAN 15 2015

STATE BAR COURT CLERK'S OFFICE
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STATE BAR COURT OF CALIFORNIA

HEARING DEPARTMENT – SAN FRANCISCO

In the Matter of)	Case No.: 13-O-15011-PEM
)	
JOHN WARNER LAWSON,)	DECISION AND ORDER OF
)	INVOLUNTARY INACTIVE
Member No. 224213,)	ENROLLMENT
)	
<u>A Member of the State Bar.</u>)	

In this matter, respondent John Warner Lawson was charged with one count of misconduct alleging a failure to comply with conditions of his disciplinary probation. Respondent failed to participate either in person or through counsel, 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 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

Respondent was admitted to practice law in this state on January 19, 2003, and has been a member since then.

Procedural Requirements Have Been Satisfied

On March 3, 2014, the State Bar properly filed and served an NDC on respondent by certified mail, return receipt requested, at his membership records address. The NDC notified respondent that his failure to participate in the proceedings would result in a disbarment recommendation. (Rule 5.41.) The NDC was returned "unclaimed" to the State Bar.

In addition, reasonable diligence was also used to notify respondent of this proceeding. The State Bar made several attempts to contact respondent without success. These efforts included mailing a courtesy copy of the NDC to respondent at his membership records address, calling him at his membership records telephone number, and sending an email to respondent at his membership records email address.

Respondent failed to file a response to the NDC. On May 6, 2014, the State Bar filed and properly served a motion for entry of respondent's default. The motion complied with all the requirements for a default, including a supporting declaration of reasonable diligence by the 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 file a response to the motion, and his default was entered on May 22, 2014. The order entering the default was 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, and he has remained inactively enrolled since that time.

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 December 3, 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; (3) respondent has a prior record of 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 January 6, 2015.

Respondent has been disciplined on two prior occasions.³ Pursuant to a Supreme Court order filed on March 1, 2011, in case no. S189210, respondent was suspended for one year, the execution of which was stayed, and actually suspended for 30 days and until the State Bar Court grants a motion to terminate his actual suspension. In this default matter, respondent was found culpable on three counts of misconduct, including failing to competently perform legal services, failing to communicate with a client, and misrepresentation constituting moral turpitude.

Pursuant to a Supreme Court order filed on February 3, 2012, respondent was suspended for one year, the execution of which was stayed, and he was placed on probation for two years, including a 30-day period of actual suspension. In this matter, respondent stipulated to willfully disobeying or violating a court order by failing to comply with rule 9.20 of the California Rules of Court in his prior discipline matter.

³ The court takes judicial notice of the pertinent State Bar Court records regarding respondent's prior discipline, admits them into evidence, and directs the Clerk to include copies in the record of this case.

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 No. 13-O-15011 – The Disciplinary Probation Matter

Count One – respondent willfully violated Business and Professions Code section 6068, subdivision (k) (failure to comply with conditions of probation), by failing to timely: (1) contact the Office of Probation to schedule a meeting; (2) attend Ethics School; and (3) submit five quarterly reports.

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 properly served him with the NDC and made various efforts to contact respondent, including mailing a courtesy copy of the NDC to respondent at his membership records address, calling him at his membership records telephone number, and sending an email to respondent at his membership records email 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.

RECOMMENDATIONS

Disbarment

The court recommends that respondent John Warner Lawson 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.

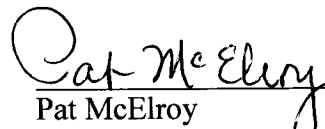
Costs

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 John Warner Lawson, State Bar number 224213, 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 15, 2015


Pat McElroy
Judge of the State Bar Court

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 San Francisco, On January 15, 2015, I deposited a true copy of the following document(s):

DECISION AND ORDER OF INVOLUNTARY INACTIVE ENROLLMENT

in a sealed envelope for collection and mailing on that date as follows:

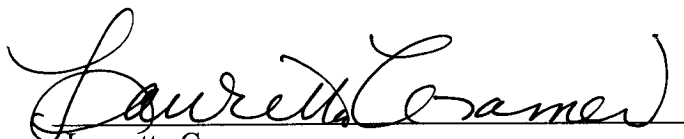
- by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

JOHN W. LAWSON
PO BOX 1853
WINDSOR, CA 95492

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

Catherine E. Taylor, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on January 15, 2015.


Laretta Cramer
Case Administrator
State Bar Court